

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address):</i> _____ ATTORNEY FOR <i>(Name):</i>	TELEPHONE NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:		
NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME AND PROPOSED ANSWER		

If your support order is based on presumed income you may file this motion and ask the court to cancel (set aside) your support order. If the court agrees with you, the court will issue another order based on either your actual income or earning capacity. You must file the original copy of this motion and the attachments specified in item 4 below with the court clerk within 90 days from the date the first collection of support was made and serve a copy upon the district attorney. Keep a copy of this motion for your records.

1. **To the local child support agency:** A hearing on this will be held as follows *(see instructions on how to get a hearing date):*

a. Date:	Time:	<input type="checkbox"/>	Dept.:	<input type="checkbox"/>	Div.:	<input type="checkbox"/>	Room:
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b. Address of court: same as noted above other *(specify):*

2. I am asking the court to cancel (set aside) my child support order in this case.
3. I am asking the court to issue another order because the current order is based on a presumed income which is greater than my actual income.
4. Attached are my completed *Answer to Complaint* (form FL-610), either an *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155), and tax returns for each year that my actual income was different from the amount used to calculate the support order. I ask the court to hold the tax returns for use at the hearing and to return them to me at the conclusion of the hearing.

5. My address and telephone number for receipt of all notices and court dates are as follows:

Address:

City, state and zip code:

Home telephone:

Work telephone:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:



(TYPE OR PRINT NAME)

(SIGNATURE)

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and recommendations to a judge. However, if you object to the commissioner acting as a temporary judge, an order will not be made until a judge review your case.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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An adult other than you must complete the Proof of Service below and provide a copy of this motion to the local child support agency at the following address (*specify*):

PROOF OF SERVICE

- 6. I am at least 18 years of age, not a party to this legal action, and a resident of or employed in the county where the mailing took place.
- 7. My residence or business address is:

- 8. I served this motion and any other forms filed with the motion on the local child support agency.
 - a. **Personal delivery.** I personally delivered this motion to an employee of the local child support agency as follows:

- (1) Name of employee:
- (2) Address where delivered:

- (3) Date of delivery:
- (4) Time of delivery:

- b. **Mail.** I deposited this motion in the United States mail, in a sealed envelope with postage fully prepaid. I used first class mail. The envelope was addressed and mailed as follows:

- (1) Name:
- (2) Address:

- (3) Date of mailing:
- (4) Place of mailing (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____ (TYPE OR PRINT NAME)



_____ (SIGNATURE OF PERSON WHO SERVED MOTION)

INFORMATION SHEET FOR NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME

Please follow these instructions to complete the *Notice and Motion to Cancel (Set Aside) Support Order* (form FL-640) if you do not have an attorney to represent you. Your attorney, if you have one, should complete this form.

This form should only be used when your support order was based on presumed income and the presumed income is greater than your actual income. If you are not sure if your order is based on presumed income you should look at your copy of the *Judgment Regarding Parental Obligations* (form FL-630) that you received. If the box for item 3 on the front of the judgment is checked, your support amount is based on presumed income. If it is not checked, your support amount is based on income information that was available then and you should not use this form. If you do not have a copy of the judgment, you can get one from either the court clerk or the local child support agency office.

You must file the completed motion form and attachments with the court clerk within 90 days of the date of the first collection of support. The address of the court clerk is the same as the one shown for the superior court on the *Judgment Regarding Parental Obligations* (form FL-630). You may have to pay a filing fee. If you cannot afford to pay the filing fee, the court may waive it. For more information about the filing fee and waiver of the filing fee, contact the court clerk. **Keep three copies of the filed motion form and its attachments. Serve one copy on the local child support agency and one copy on the person listed as the Other Parent. (See *Information Sheet for Service of Process*, form FL-611.) The third copy is for your records.**

INSTRUCTIONS FOR COMPLETING THE *NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME FORM* (TYPE OR PRINT FORM IN BLACK INK):

Front page, first box, top of form, left side: Print your name, address, and telephone number in this box if it is not already there.

Front page, second box, left side: Print your county's name and the court's address in this box. Use the same address for the court that is on the *Judgment Regarding Parental Obligations* (form FL-630) that you received.

Front page, third box, left side: Print the names of the Petitioner/Plaintiff, Respondent/Defendant, and Other Parent in this box. Use the same names listed in the *Judgment Regarding Parental Obligations* (form FL-630) that you received.

Front page, first box, top of form, right side: Leave this box blank for the court's use.

Front page, second box, right side: Print your case number in this box. This number is also stated on the *Judgment Regarding Parental Obligations* (form FL-630).

1. You must contact the court clerk's office and ask that a hearing date be set for this motion. The court clerk will give you the information you need to complete this section.
- 2.-3. These sections are asking the court to cancel your child support order and issue another one based on your actual income.
4. **You cannot file this motion unless you attach a completed *Answer to Complaint* (form FL-610), *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), and your tax returns for each year that your actual income was less than the amount used to calculate the support order.**
5. You must list your address and phone numbers where you can receive all notices and court dates. You must let the court know whenever your address changes. You may not receive important notices that affect you if the court does not have your current address.

You must date the form, print your name, and sign the form under a penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

Top of second page, box on left side: Print the names of Petitioner/Plaintiff, Respondent/Defendant, and Other Parent in this box. Use the same names listed on the front page.

Top of second page, box on right side: Print your case number in this box. Use the same number as the one on the front page. Instructions for how to complete the Proof of Service section of the motion form are in the *Information Sheet for Service of Process* (form FL-611). The person who serves the motion and its attachments must fill out this section of the form. **You cannot serve your own motion.**