

Judicial Council of California • Administrative Office of the Courts

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<http://www.courts.ca.gov/policyadmin-invitationstocomment.htm>

INVITATION TO COMMENT

SPR11-40

Title

Family Law- Information Sheet

Action Requested

Review and submit comments by
June 20, 2011

Proposed Rules, Forms, Standards, or Statutes

Approve Family Law form – *Legal Steps for Divorce (Dissolution)* (form FL-107-INFO)

Proposed Effective Date

January 1, 2012

Proposed by

Family and Juvenile Law Advisory
Committee

Hon. Kimberly J. Nystrom-Geist, Cochair

Hon. Dean Stout, Cochair

Contact

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Elkins Family Law Implementation Task

Force

Hon. Laurie D. Zelon, Chair

Summary

Proposed *Legal Steps for Divorce (Dissolution)*(form FL-107-INFO) is designed to provide basic information regarding the process for starting and finalizing the dissolution of a marriage or domestic partnership. It is also designed to provide information regarding opportunities for alternative dispute resolution and to find legal assistance. The provision of such a form was recommended by the Elkins Family Law Task Force.

Discussion

The Judicial Council established the Elkins Family Law Task Force in response to the decision in *Elkins v. Superior Court* (2007) 41 Cal.4th 1337. The task force was charged with studying and proposing measures to assist trial courts in achieving efficiency and fairness in marital dissolution proceedings and to ensure access to justice for family law litigants, many of whom are self-represented.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The Elkins Family Law Task Force *Final Report and Recommendations*, which was accepted by the Judicial Council on April 23, 2010, contained recommendations regarding the need to provide basic information for litigants about the family law process.¹

The task force stated at page 63: “The family law process can be confusing and intimidating. Education for litigants about the court process and basic legal principles can help minimize stress, encourage appropriate agreements, and assist the parties in resolving their cases in a timely manner. When litigants understand their legal rights and procedural requirements, court processes can be more effective and efficient, less frustrating, and more responsive to litigants’ needs.”

This proposal responds to recommendation III B.2: “Courts should provide introductory information to parties upon the filing of initiating papers or a response in family law cases that describes the steps in the process.”

To assist litigants understand the basic process for dissolutions and to help them find assistance with their cases, the Family and Juvenile Law Advisory Committee and the Elkins Family Law Implementation Task Force propose that the Judicial Council, effective January 1, 2012, approve *Legal Steps for a Divorce (Dissolution)* (form FL-107-INFO). Upon approval of this form in English, it will be translated into Spanish and other languages commonly spoken in California as funding permits.

Attachment 1: FL-107-INFO at pp. 3–4.

¹The Final Report of the Elkins Task Force can be found at: <http://www.courts.ca.gov/xbc/cc/elkins-finalreport.pdf>.

FL-107-INFO Legal Steps for a Divorce (Dissolution)

STEP 1. The spouse or domestic partner who files the papers in court is the Petitioner. The other spouse or domestic partner is the Respondent. Petitioner files a *Summons* (form FL-100) and *Petition for Dissolution* (form FL-110). If there are minor children, petitioner also files a *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act* (form FL-105). These and all other forms and instruction packets listed below are available from the clerk's office or on the internet for FREE at www.courts.ca.gov/selfhelp



STEP 2. A person 18 or over (not the Petitioner) serves the spouse or domestic partner (Respondent) with the papers listed in Step 1 after they have been filed and stamped by the court clerk. A blank *Response* (form FL-120) and this information sheet must also be served with the papers. A *Proof* (form FL-115) of that service is filed with the court.



STEP 3. The petitioner and respondent fill out *Declarations of Disclosure* (form FL-140) with an *Income and Expense Declaration* (form FL-150), and *Schedule of Assets and Debts* (form FL-142) (see DECLARATIONS OF DISCLOSURE PACKAGE* for forms and instructions) and give them to each other with the last two years of tax returns. Petitioner and respondent must each file a *Declaration Regarding Service of Declaration of Disclosure* (form FL-141) with the court.



STEP 4. THE CASE IS FINISHED IN ONE OF FOUR WAYS:



STEP 4 A. Respondent does not file a Response



STEP 4 B. Respondent files a Response



Petitioner can file default papers 30 days after step 2. See DEFAULT PACKAGE* for forms and instructions.



If no agreement, Petitioner prepares a proposed *Judgment* (form FL-180) asking only for the orders requested in the *Petition* and submits to the court with other DEFAULT PACKAGE* forms.

If agreement, petitioner attaches agreement to the proposed final *Judgment* (form FL-180).



If parties have written agreement—respondent files *Appearance, Stipulation & Waivers* (form FL-130) along with final papers and proposed *Judgment* (form FL-180). Attach written agreement to proposed final *Judgment*. See UNCONTESTED PACKAGE* for forms and instructions.

If no agreement, the court may try to assist the parties to reach an agreement. If no agreement, parties will need to go to Trial. See TRIAL PACKAGE* for forms and instructions.

IMPORTANT NOTICES

- The soonest you can be divorced is 6 months and 1 day from the date the Respondent was served, filed a *Response* (form FL-120) or filed an *Appearance Stipulation and Waivers* (form FL-130). You must complete step 4 to get your divorce.
- If you need orders for child support, child custody, visitation, spousal support, restraining orders or other orders before then, you can file a *Request for Order* (form FL-300) asking for temporary orders. See REQUEST FOR ORDER PACKAGE* for forms and instructions.
- You or your lawyer prepares all the papers for the court to review and sign (including the proposed *Judgment* - step 4.) It is really helpful to have a lawyer's help with this process. See "Where Can I Get Help?" on the other side of this form.
- You must keep the court informed of your address so you can get your final *Judgment* signed by the judge. File *Notice of Change of Address* (form MC-040) to tell the court if you have moved.

*All packages listed in capital letters above are available for free at www.courts.ca.gov/selfhelp-divorce.htm.



Methods for Resolving Family Law Cases

Some people prefer to resolve some or all of their issues without having the court decide. The court does not prefer one method of case resolution over another. People can prepare written agreements to file in their divorce case. The following services provide help.

In Court: The following services are provided without charge:

- **Family Court Services.** Provides mandatory mediation to parents who are unable to agree on issues related to child custody and parenting. Financial issues and divisions of property are not addressed.
- **Family Law Facilitators and Self-Help Centers.** Can help with mediation in some cases and provide samples of agreements and other information.
- **Settlement Conferences and Discussions.** An informal process in which a judge and/or experienced attorneys meet with the parties and their attorneys, hear the facts and issues in dispute, and suggest a resolution that the parties may accept or use as a basis for further negotiations.

Out of Court: People can choose to hire outside professionals to assist them in resolving their case:

- **Attorneys.** Attorneys can help work out agreements between the parties.
- **Mediator.** A mediator helps the parties communicate to explore options and arrive at a mutually acceptable resolution of the dispute. The mediator does not make a decision.
- **Collaborative Law.** Lawyers represent each party but do not go to court. They try to reach an agreement. If court is necessary, new lawyers must be hired.

For more information about these services see <http://www.courts.ca.gov/1004.htm>.

Where Can I Get Help?

This information sheet gives only basic information on the divorce and is not legal advice. If you want legal advice, ask a lawyer for assistance. You may also:

1. Contact the family law facilitator or self-help center for information, court forms, and referrals to local legal resources.
2. Find a lawyer through your local bar association, the State Bar of California at <http://calbar.ca.gov>, or the Lawyer Referral Service at 866-442-2529.
3. Hire a private mediator. A mediator may be a lawyer or counselor. Contact your local bar association, court ADR (Alternative Dispute Resolution) program, or family court services for a referral to local resources.
4. Find information on the California Courts Online Self-Help Center website: www.courts.ca.gov/selfhelp.
5. For free and low-cost legal help (if you qualify), go to www.lawhelpcalifornia.org.
6. Find information at your local law library or ask at your public library.
7. Ask the court clerk about resources in your area.

What If There Is Domestic Violence or a Protective Order?

If there is domestic violence or a protective order, talk with a lawyer, counselor, or mediator before making agreements.

For domestic violence help, call the National Domestic Violence Hotline: 800-799-7233, TDD: 800-787-3224, or 211 (if available in your area).



Item SPR11-40 Response Form

Title: Family Law- Information Sheet (approve form FL-107-INFO)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: www.courts.ca.gov/policyadmin-invitationstocomment.htm

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
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San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2011

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.