

# The Law Offices of Edward Misleh, Inc.

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## *HOW TO USE AND COMPLETE DIVORCE FORMS*

Unbundling of legal services allows a California Divorce client to pick and choose the scope and limits of representation by defining the specific duties they wish to have an attorney perform. Should you be seeking a California divorce, you can pick which forms you would like our office to complete and which issues you would like our attorneys to address in court.

When considering a divorce in California you can limit which parts of your case you would like your attorney to handle, such as:

- Consulting an attorney to provide legal information and advise you about your case.
- Representation on specific issues such as child custody, child support, spousal support, or property settlement.
- Preparing forms and other court documents.
- Prepare a Marital Settlement Agreement.

Often, we see potential clients who simply want assistance in completing specific forms for their divorce case. All California courts, including the County of Sacramento, County of El Dorado, County of Placer, County of Solano, and County of Amador, use the same family law forms when a party is either filing or responding in a divorce proceeding. If you choose to represent yourself (pro per), our offices will complete any necessary forms once you provide preliminary information and pay a one-time fee. In addition, should you want legal representation, you will be able to later subscribe to that service.

The following is an outline of the divorce process along with possible outcomes. For your convenience, we have included all required California Family Law forms should you want to file

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for divorce and represent yourself. Otherwise, for a fee, we will prepare any and all forms you may need for filing. We will also provide limited representation, should you so desire.

## Initial Petition and Summons

To file for divorce, do the following:

1. Complete and file either form FL-100 (marriage petition) or FL-103 (domestic partner petition) and a FL-110 (summons).
2. If you have children, you must complete form FL-105 (UCCJEA).
3. Make two copies of the original. The original will be retained by the court; one copy is for your records, and the second copy for the other party.
4. File all of the above with the clerk of court who will stamp all three (the original and two copies).
5. Pay a filing fee of \$435.00 unless you qualify for a waiver.
6. To determine if you qualify for a waiver, complete and file forms FW-001 (fee waiver request) and FW-003 (fee waiver order).
7. Personally serve your spouse or partner a copy of the stamped documents you filed with the clerk (except for the fee waiver) along with form FL-120 (marriage petition response) or FL-123 (domestic partner response).
8. Personal service must be done by using either a process server, the sheriff, or another person who is over the age of 18. You cannot serve these documents yourself.
9. Service by mail can be done (not by you), if your spouse or partner agrees to sign and return form FL-117 (notice of receipt of service) to your process server.
10. The person who served the papers on your spouse or partner must complete and sign either form FL-115 (proof of service) or form FL-117 (notice of receipt of service).

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11. File the completed and signed FL-115 or FL-117 with the clerk of court. There is no charge for this filing.
12. Complete and prepare preliminary financial disclosures using the following forms:
  - a. FL-140 (financial disclosure),
  - b. FL-142 (schedule of assets and debts) or form FL-160 (declaration of community and separate property), and,
  - c. FL-150 (income and expense declaration). You will need copies of your last two years tax filings (both state and federal and any attachments). Do not file your tax filings but serve them on your spouse or partner.
13. Serve your spouse or partner a copy of all your financial disclosures within sixty days of the original filing (the date stamped by the clerk).
14. Complete and file with the court clerk form FL-141 (service of financial information).
15. Within thirty days of service, your spouse or partner, also known as the Respondent, is required to respond by filing form FL-121 (marriage response) or form FL-123 (domestic partner response) with the clerk of the court.

## The Default Divorce

Should your spouse or partner, now known as the Respondent, fail to respond to your petition within thirty days of the day they were served, they will be in default. To obtain a judgment, do the following:

1. Complete the following forms:
  - a. FL-165 (request for default),
  - b. FL-170 (declaration for default),
  - c. FL-180 (judgment), and,
  - d. FL-190 (notice of entry of default).

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2. Should there be children from the marriage and you are requesting child custody, complete form FL-341 (visitation order), form FL-341a (supervised visitation order), form FL-341b (abduction order), form FL-341c (holiday schedule), form FL-341d (additional custody provisions), and/or form FL-341e (joint legal custody).
3. To request child support, complete form FL-342 (child support order), form FL-150 or form FL-155 (income declaration), form FL-191 (child support registry), form FL-192 (health insurance and reimbursement), and form FL-195 (wage garnishment).
4. To request spousal support (also known as alimony) complete form FL-157 (support declaration), form FL-343 (spousal support order) form FL-150 (income and expense declaration), and form FL-435 (wage garnishment).
5. To request division of marital assets, complete form FL-345 (property order), form FL-160 (declaration of community and separate property), and form FL-348 (pension benefit order).
6. Mail all forms and two large envelopes (with prepaid postage) to the clerk of the court. One large envelope should have your address and the other should have your spouse's or partner's address. A California Court judge will sign form FL-180 without you or your spouse/partner having to appear in court. The court clerk will then mail the judgment to both you and your spouse/partner in the large envelopes you provided. In accordance with California law your divorce will be finalized no sooner than at least be 6 months and 1 day from the date you served your spouse the initial petition.

## The Marital Settlement Agreement

If you and your spouse/partner have a written Marital Settlement Agreement (MSA) which is notarized, this can be used to complete your divorce even if your spouse/partner did not respond. Your MSA will include information about your marriage/partnership, any child custody and

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visitation arrangements, payment of child support, payment of spousal support, and any property division.

1. Complete the following forms:
  - a. FL-165 (request for default),
  - b. FL-170 (declaration for default),
  - c. FL-180 (judgment),
  - d. FL-190 (notice of entry of default).
2. You must file and/or update form FL-144 (waiver of financial disclosure) if both you and your spouse/partner agree to waive the final disclosure. Otherwise, complete and prepare final financial disclosures using form FL-140 (financial disclosure), FL-142 (schedule of assets and debts) or FL-160 (declaration of community and separate property), FL-150 (income and expense declaration). When filing your final financial disclosure, you must include a written statement of how you arrived at the value of any community property, a list of investment opportunities that have occurred since separation, and your last two filed tax returns.
3. Serve the final financial disclosures on your spouse/partner only if you and your spouse/partner did not agree to waive final financial disclosures. Do not file these forms but keep them for your records.
4. Make two copies of the following forms and file them with the clerk of court:
  - a. FL-141 (if you and your spouse/partner did not agree to waive final financial disclosure),
  - b. FL-144 (if you and your spouse did agree to waive final financial disclosure),
  - c. FL-165 (request for default),
  - d. FL-170 (declaration for default),
  - e. FL-180 (judgment),
  - f. FL-190 (notice of entry of default), and,

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- g. The notarized MSA.
5. Mail all forms and two large envelopes (with prepaid postage) to the clerk of the court. One large envelope should have your address and the other should have your spouse's/partner's address. A California Court judge will sign the FL-180 without you or your spouse having to appear in court. The court clerk will then mail the judgment to both you and your spouse in the large envelopes you provided. In accordance with California law, your divorce will be finalized no sooner than at least be 6 months and 1 day from the date you served your spouse the initial petition.

## Uncontested Divorce

Your spouse or partner has filed either a FL-120 (marriage response) or a FL-123 (domestic partner response) and will have paid a \$435.00 filing fee. To complete your divorce, either you or your spouse/partner must do the following:

1. Complete the following forms:
  - a. FL-141 (if you and your spouse did not agree to waive final financial disclosure),
  - b. FL-144 (if you and your spouse did agree to waive final financial disclosure),
  - c. FL-165 (request for default),
  - d. FL-170 (declaration for default),
  - e. FL-180 (judgment),
  - f. FL-190 (notice of entry of default), and,
  - g. The notarized MSA.
2. You must file and/or update form FL-144 (waiver of financial disclosure) if both you and your spouse/partner agree to waive the final disclosure. Otherwise, complete and prepare final financial disclosures using form FL-140 (financial disclosure), FL-142 (schedule of assets and debts) or FL-160 (declaration of community and separate

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property), FL-150 (income and expense declaration). When filing your final financial disclosure, you must include a written statement of how you arrived at the value of any community property, a list of investment opportunities that have occurred since separation, and your last two filed tax returns.

3. Serve the final financial disclosures on your spouse/partner only if you and your spouse/partner did not agree to waive final financial disclosures. Do not file these forms but keep them for your records.
4. Make two copies of the following forms and file them with the clerk of court:
  - a. FL-141 (if you and your spouse/partner did not agree to waive final financial disclosure),
  - b. FL-144 (if you and your spouse did agree to waive final financial disclosure),
  - c. FL-165 (request for default),
  - d. FL-170 (declaration for default),
  - e. FL-180 (judgment),
  - f. FL-190 (notice of entry of default), and
  - g. The notarized MSA.
5. Mail all forms and two large envelopes (with prepaid postage) to the clerk of the court. One large envelope should have your address and the other should have your spouse's/partner's address. A California Court judge will sign the FL-180 without you or your spouse having to appear in court. The court clerk will then mail the judgment to both you and your spouse in the large envelopes you provided. In accordance with California law, your divorce will be finalized no sooner than at least be 6 months and 1 day from the date you served your spouse the initial petition.

**The Contested Divorce**

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Your spouse/partner filed a FL-120 (marriage petition response) or FL-123 (domestic partner response) and paid a \$435.00 filing fee. You and your spouse/partner will have to appear in court where a California judge will decide any issues for which you and your spouse/partner cannot resolve. The issues to be addressed will be child custody, child support, spousal support, and property division. You and your spouse/partner can still agree to and enter a MSA on some of the issues and have the judge decide on any remaining issues.

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