

Declaration of Disclosure and Income and Expense Declaration

hello divorce.



Declaration of Disclosure and Income and Expense Declaration (form FL-141)

Explanation:

At various points throughout a dissolution action, the parties are required to serve declarations of disclosure, including income and expense declarations, on the other party.

The “preliminary” declaration of disclosure must be served when the Summons and Petition are served, or within 60 days of the filing of the Petition. The “final” declaration of disclosure must be served before a judgment based on a settlement can be entered, or at least 45 days before the first day set for trial if the case is contested. While the final declaration of disclosure can be waived, the preliminary disclosure normally cannot be waived. Because these disclosures are served on the parties but not filed, the Court needs some way to know whether the parties have complied with the requirements. That is where the “Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration” (form FL-141) comes in. This form can be used to let the court know (1) whether preliminary declarations of disclosure have been served; (2) whether final declarations of disclosure have been served; and (3) whether declarations of disclosure have been waived.

The form you will need is the following:

Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration (form FL-141)

<http://www.courts.ca.gov/documents/fl141.pdf>

Instructions for filling out Judicial Council form FL-141:

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Caption box at the top of the page

Fill in your name, address, telephone number, and email address in the section labeled “Attorney or Party without Attorney.” Where it says “Attorney for (Name):” write “In Pro Per.”

In the box below that begins with “**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**”, write in the name of the county in which you filed your case immediately after the word “OF.” Below that fill in the court address and branch name. You will be using the branch and address for the courthouse where family law cases are

heard in your county. If there is more than one courthouse that hears family law cases in your county, use the branch for the courthouse where your specific case will be heard. You can look up this information on the court's website or by calling the court clerk, whose number you will find on the court's website.

In the next box below, in the space for Petitioner, fill in the Petitioner's name as it appears on the Summons that was file stamped by the court clerk. In the space for Respondent, fill in the Respondent's name as it appears on the Summons. The Petitioner is the spouse/partner who filed the Petition and initiated the case. The Respondent is the other spouse/partner.

The next box below reads **"DECLARATION REGARDING SERVICE OF DECLARATION OF DISCLOSURE AND INCOME AND EXPENSE DECLARATION."** There are several boxes below. If you are the Petitioner, mark the box next to "Petitioner's." If you are the Respondent, mark the box next to "Respondent's." Then mark the box next to Preliminary or the box next to Final, depending on whether you are filing the Declaration Regarding Service concerning a preliminary declaration or concerning a final declaration. To the right of these boxes is a space where you will fill in the Case Number. You can find the Case Number on any of the file-stamped documents you presented to the court clerk when you filed the Petition.

Item 1

Leave the box to the left of "attorney for" blank. Mark the box to the left of "petitioner" if you are the Petitioner. Mark the box to the left of "respondent" if you are the Respondent.

Item 2

Leave this section blank unless you are filing the Declaration Regarding Service in connection with service of a preliminary Declaration of Disclosure. If you are filing the Declaration Regarding Service in connection with service of a preliminary Declaration of Disclosure, check the box to the left of "Petitioner's" if you are the Petitioner, or check the box to the left of "Respondent's" if you are the Respondent. Mark the box to the left of "the other party" if you served the documents listed in Item 2 on your spouse/partner (as opposed to on your spouse/partner's attorney). Mark the box to the left of "the other party's attorney" if you served the documents on your spouse/partner's attorney. Mark the box to the left of "personal service" if you served the documents by personal service. Mark the box to the left of "mail" if you served the documents by mail. Be sure to note the date of service in the space provided (to the right of "on (date):" under Item 3).

Important Note: You may not serve by mail unless (1) you are the Respondent; (2) you are the Petitioner and you have served the Respondent, and the Respondent has appeared in the action and provided the court with a mailing address; or (3) you are serving the declaration of disclosure along with the Petition and Summons by one of the methods allowed for service of summons by mail (see instructional template for Proof of Service of Summons, form FL-115, for a description of proper service of summons by mail). If you are not allowed to serve by mail, you must personally serve the declaration of disclosure. See the instructional template for Proof of Service of Summons (form FL-115) for a discussion of some of the nuances of personal service.

Important Note: Read Item 2 carefully. Be sure that you have served all the documents identified in Item 2 (Preliminary Declaration of Disclosure, current Income and Expense Declaration, etc.). If you have not, you may not make any marks under Item 2.

Item 3

Leave this section blank unless you are filing the Declaration Regarding Service in connection with service of a final Declaration of Disclosure. If you are filing the Declaration Regarding Service in connection with a preliminary Declaration of Disclosure, follow the instructions that were given for Item 2, above.

Important Note: A final Declaration of Disclosure is filled out using the same forms as a preliminary Declaration of Disclosure. What makes it “final” and distinguishes it from a “preliminary” Declaration, is that it contains extra details not required in the preliminary statement. It is not enough to simply check the box that says “final” on the Declaration of Disclosure. Before you complete Item 3 certifying that you have served final Declarations of Disclosure, make sure that your final declarations are in fact “final.” See the instructional templates on completing the Declaration of Disclosure (form FL-140) and the Schedule of Assets and Debts (form FL-142) for more information on the differences between a “preliminary” disclosure and a “final” disclosure. You can always consult one of our helpful HD attorneys for clarification.

Item 4

Leave this section blank unless one or both of the parties are waiving declarations of disclosure and/or income and expense declarations.

Explanation: This section can be used under different scenarios in connection with waiving disclosure requirements. The most common use of this section is for when the parties have agreed to waive final disclosures. This section can also be used for Petitioner to waive service of and receipt of final disclosures when proceeding under a true default. This section can also be used when a party who has served disclosures wants to waive receiving preliminary and/or final disclosures from the other party. This last type of waiver requires a court order. When waivers can be made, and the consequences of doing so, are not covered in this instructional template. The instructions for filling out Item 4 are not designed to help you determine when and if to waive disclosures. If you would like to discuss whether it is appropriate under your circumstances to waive disclosures, please consult one of our helpful HD attorneys.

If Declarations of Disclosure and/or income and expense declarations are being waived, mark the box under Item 4 to the left of the text “Service of.”

**Then, depending on the type of waiver,
follow the instructions below:**

Mutual waiver of final disclosures: Mark the box to the left of “Petitioner’s” and the box to the left of “Respondent’s.” Then mark the box to the left of “final.” Then mark box (a). If a mutual waiver of final disclosures has already been filed, note the date of the filing in the space provided. If a waiver has not been filed yet, it must be filed at the same time the Declaration Regarding Service is filed. Mark the box to the left of “is being filed at the same time as this form” and be sure to file it at the same time that you file the Declaration Regarding Service.

Note: *Filling out Item 4 is not sufficient to waive final disclosures. Item 4 gives notice that final disclosures have been waived. Actual waiver of final disclosures involves different steps and is not covered by this instructional template. For more information on how to waive final disclosures, consult one of our helpful HD attorneys.*

— OR —

Waiver of final disclosures by Petitioner in a true default case: Mark the box to the left of “Petitioner’s” and the box to the left of “Respondent’s.” Then mark the box to the left of “final.” Also mark the box to the left of “current income and expense declaration...” Then mark box (c).

Note: *This waiver is only available in cases of a “true default” – i.e. the Respondent has been properly served with the Petition and Summons and has failed to file a timely Response, and the Petitioner is proceeding with a default that does not involve a stipulated judgment or a settlement agreement. The specific requirements for such a waiver or not covered by this instructional template. For more information on waiving disclosures in a “true default” setting, consult one of our helpful HD attorneys.*

At the bottom of the page, print your name in the space provided. Sign the form in the space provided for a signature, and date the form when you sign it, in the space provided above where you printed your name.

Make a copy of the Declaration Regarding Service and take the original and your copy to the courthouse for filing. The clerk will file the original and endorse your copy with a file stamp.

You are all done!