

1 **NAME**  
2 **ADDRESS**  
3 **TELEPHONE NUMBER**

4 **IN PRO PER**

5 [FOR YOUR INFORMATION ONLY: This is a Points and Authorities—the basis for your  
6 request. Its purpose is to lay out your request regarding a specific issue, and to support that  
7 request with facts and law. It also helps you in planning your case, and when negotiating with  
8 the other party/attorney.

8 Additionally, sometimes in family law, we have to ‘teach’ a Judge the law about specific  
9 issues, because they are either new to the bench or are experienced in areas of law other than  
10 divorce. The best way to do this is through a Memorandum of Points and Authorities. While  
11 not generally required by the Court (unless ordered otherwise by the Judge assigned to your  
12 case) it is a good idea to submit one to the Court, especially when you are requesting relief that  
13 isn’t considered standard (e.g. downward modification of child/spousal support).

13 **IN THE SUPERIOR COURT OF CALIFORNIA**

14 **COUNTY OF [COUNTY NAME]**

15  
16 ) **Case No. [CASE NUMBER]**  
17 **In Re Matter of** )  
18 **[PETITIONER’S NAME],** ) **MEMORANDUM OF POINTS AND**  
19 **Petitioner,** ) **AUTHORITIES IN RE. MODIFICATION**  
20 **and** ) **OF [CHILD OR SPOUSAL] SUPPORT**  
21 **[RESPONDENT’S NAME],** ) **Date:**  
22 **Respondent.** ) **Time:**  
23 ) **Dept:**

24 **I. STATEMENT OF FACTS**

25  
26 [INSERT BOTH STATISTICAL FACTS AND PROCEDURAL FACTS HERE. FOR  
27 EXAMPLE, “THE PARTIES WERE MARRIED ON \_\_\_\_\_ AND SEPARATED ON  
28 \_\_\_\_\_. THEY HAVE \_\_\_ MINOR CHILD/REN, [[NAME]], [[DATE OF BIRTH]].

1 PER ORDER FILED ON \_\_\_\_\_, \_\_\_\_\_'S CUSTODIAL TIME WITH THE  
2 MINOR CHILD/REN IS EVERY OTHER WEEKEND AND ONE WEEKNIGHT DINNER  
3 EACH WEEK." BRIEFLY EXPLAIN THE FACTS OF THE SITUATION THAT LED YOU  
4 TO FILE A REQUEST FOR A MODIFICATION OF SUPPORT.  
5

## 6 II. LEGAL AUTHORITY

### 7 A. Downward Modification of Support Payable by [PETITIONER/RESPONDENT] 8 to [PETITIONER/RESPONDENT] is Warranted:

9 *Change in [PETITIONER/RESPONDENT'S] Employment Warrants a Downward*  
10 *Modification*

11 Courts will revise a support order when there has been a change in circumstances.  
12 *Marriage of Stanton* (2010) 190 Cal. App. 4<sup>th</sup> 547. **A decrease in either party's income is a**  
13 **factual basis for modification of support.** *Marriage of Leonard* (2004) 119 Cal. App.4<sup>th</sup> 546. In  
14 determining whether to modify, **the overriding issue is whether a change has affected either**  
15 **party's financial situation.** *Marriage of Mosley* (2008) 165 Cal. App.4<sup>th</sup>, 1375. In *Mosley* the  
16 Court found that **an obligor's reduction in base salary is change of circumstances that**  
17 **warrants a downward modification of support orders.**  
18  
19

20 In the present case [PETITIONER/RESPONDENT] income and financial situation  
21 changed when [DESCRIBE THE CHANGE IN CIRCUMSTANCES]. Given the change in  
22 circumstances and his current income of zero a downward modification of support is warranted.  
23

#### 24 *Guideline at Current Time*

25 The Court is limited to the conditions and circumstances existing at the time the order is  
26 made. *Marriage of Cheriton* (2001) 92 Cal. App. 4<sup>th</sup>, 269. Support cannot be based on income no  
27 longer consistent with a parent's ability to pay. *Marriage of Rosen* (2002) 105 Cal. App. 4<sup>th</sup> 808.

28 **The calculation must be made with current income figures at the time of the support**

1 **hearing. *Marriage of Tydlaska* (2003) 114 Cal. App. 4<sup>th</sup> 572, 575-576. It would be an *error* to**  
2 **charge the obligor parent with imputed earnings from prior employment that was**  
3 **involuntarily terminated. *Marriage of Eggers* (2005) 131 Cal. App. 4<sup>th</sup>, 695, 701. In *Eggers* the**  
4 Court of Appeals ruled the “**court abused its discretion by imputing income to father without**  
5 **addressing whether father had the ability and opportunity to work or eligible assets that**  
6 **could be used for support.” *Id.*, at 699.**

8 [WRITE OUT THE FACTS THAT SUPPORT YOUR REQUEST THAT SUPPORT BE  
9 MODIFIED AND IS NO LONGER APPROPRIATE AT THE CURRENT LEVEL]

11 **IV. CONCLUSION**

12 Based on the foregoing case law and statutory authority, [PETITIONER/RESPONDENT]  
13 respectfully requests: a modification of guideline support in line with [HIS/HER] current  
14 earnings.

16 Dated:

17 \_\_\_\_\_  
18 [NAME AND SIGNATURE]