

Divorce Overview

Petitioner: the spouse initiating the divorce
Respondent: the other spouse

Summons and Petition for Dissolution of Marriage

Filed by Petitioner and Served on Respondent

Response filed within 30 Days
or
Response filed after 30 days but prior to any filing for default?

No

Petitioner serves spouse with a Preliminary Declaration of Disclosure and files Declaration Regarding Service of Declaration of Disclosure Form¹

Petitioner files Proof of Service and Request to Enter Default

Petitioner serves Final Declaration of Disclosure and may waive service by Respondent¹

Petitioner fills out forms for default judgment, including any forms for child custody, child support, spousal support and property division and submits to the Court with or without an attached Settlement Agreement²

Yes

Each spouse serves the other with a Preliminary Declaration of Disclosure¹

File for and Obtain Temporary Orders, as needed³

Disagree on Some or All Issues
Spouses may engage in Discovery to gather evidence that will be presented at trial.

Disagree on Custody Issues?
Spouses must attend a Court-sponsored parenting class (PACT), meet with a mediator (Family Court Services) and comply with any other court orders such as anger management classes or a Child Custody Evaluation.

Disagree on Property Issues?
At the Mandatory Settlement Conference, the Court may send spouses to attend arbitration for the division of personal property.

Request for Trial Setting⁴
Trial Setting Conference⁵
Final Declaration of Disclosure¹
Mandatory Settlement Conference⁶

All issues settled?

Yes

Parties prepare a Stipulated Judgment specifying the settled issues that will be included in the Divorce Judgment

No

Trial on All Contested Issues

Court orders one party to prepare and submit Judgment Forms

Court signs and enters Divorce Judgment⁸

Agree on all Issues?

No

Final Declaration of Disclosure served by each spouse, or waived in agreement¹

Parties create a Marital Settlement Agreement with terms of divorce⁷

Motions to modify support, custody, or visitation orders⁹

Limited Appeals available for the purpose of contesting division of property and assets¹⁰

Divorce Overview Footnotes

1	The Preliminary and Final Declarations of Disclosure are not filed with the court but are served on the other spouse. A Declaration of Disclosure lists income, assets and debts. A <i>Declaration Regarding Service of Declaration of Disclosure</i> is filed with the court to prove that the other party was served. Under certain circumstances, the Final Declaration of Disclosure may be waived if both parties agree.
2	In a small number of complex situations, a hearing is required even for a default divorce.
3	An Order to Show Cause is filed to ask the Court to issue temporary orders for child custody, visitation, and/or support. These orders will generally remain in effect until the final Judgment is entered, at which time the court will issue Permanent Orders.
4	A Request for Trial Setting is a request that the court set the matter for a trial. Various conferences and meetings must take place before the trial occurs; if the parties settle all contested issues, no trial is held.
5	At a Trial Setting Conference , the judge will ask questions to make sure that discovery is complete and that the case is ready for trial.
6	At the Mandatory Settlement Conference , the spouses and, if represented, their attorneys, will meet at the court with the goal of settling as many issues as possible. Settled issues are included in the Marital Settlement Agreement. Any unsettled issues will be decided at the trial. If all issues are settled, no trial is needed. For any trial estimated to last five hours or more, the Mandatory Settlement Conference is usually scheduled two weeks before the trial.
7	A Marital Settlement Agreement is a legal document, signed and notarized by both parties, that details how they have settled any/all the issues of their case. It can specify how property, assets and debts are to be divided and can set forth agreed-upon spousal support, child support, and visitation.
8	A Divorce Judgment is formally known as a <i>Judgment of Dissolution of Marriage</i> . The divorce is not final until the Judgment is signed by the judge <i>and</i> it has been at least six months and one day since the petition was filed and served – even in a default divorce. In a contested divorce, it often takes much longer and all contested issues are usually decided before the Judgment is issued. However, it is possible to bifurcate the proceedings so that the divorce judgment is issued while other issues wait for trial or settlement.
9	After the judgment, either party may at any time make motions to modify support, custody, or visitation orders . A parent who seeks a child custody modification needs to show a significant change in circumstances.
10	Limited Appeals . An appeal regarding asset division must be filed within 60 days of the divorce judgment. After 60 days, a divorce judgment may only be set aside for fraud, duress, perjury, mental incapacity, mistake, or failure to comply with the disclosure requirements. Specified time limits apply.

Quick Summary

Petitioner:

the spouse initiating the divorce

Respondent:

the other spouse

If the respondent does not file a response within 30 days of receiving the petition, the petitioner can obtain a “default” divorce by filing court forms for judgment, child custody, child support, spousal support, and property division. No trial is needed.

If the respondent responds and the spouses agree on all issues, they draft a Marital Settlement Agreement and incorporate it into the Divorce Judgment. No trial is needed.

If there is a response but the spouses disagree on some or all issues, there are specific court processes that must be followed, with the goal of arriving at a settlement agreement and avoiding a trial. If there are still areas of disagreement after following these processes, the spouses can include any uncontested issues in a Marital Settlement Agreement and go to trial on the other issues.

If the spouses have been married 5 years or less, have no children together, own no real estate and meet certain other requirements, they can obtain a **Summary Dissolution** which is faster and less complex.

For Self-Help

www.courts.ca.gov/selfhelp-divorce.htm

www.lasuperiorcourt.org/familylaw

Includes phone numbers for the walk-in self-help services that are available at most courthouses.