

MEMORANDUM OF POLICY

PROCEDURES AND REQUIRED DOCUMENTS FOR SETTING HEARING IN FAMILY LAW DEFAULTS

Before any Family Law default matter is set for hearing, the clerk must have received from counsel or the party in pro per the following items:

1. Property Declaration (original and two copies)
2. Current Income and Expense Declaration (not older than 30 days) (original and two copies)
3. Stipulation To Establish or Modify Child or Family Support and Order (if applicable) (original and two copies)
4. Wage Assignment Order (if support ordered) (original and one copy)
5. Certified copy of birth certificate of minor child at issue - if applicable - see below* (CC §4604.5)
6. Request to Set Uncontested Matter (original and one copy)
7. The original and two copies of a Proposed Judgment of Dissolution of Marriage which shall set forth:
 - a. The legal and physical custody of the minor children (name each child and give date of birth) and visitation;
 - b. Child support (payment through Probation Department/District Attorney to enforce if recipient of child support is receiving public assistance);
 - c. Spousal support and/or waiver of same;
 - d. Specifically set forth in the judgment the division of property, including legal description of real property, vehicle license numbers and the descriptions;
 - e. Division of debts - names of creditors and amounts;
 - f. Restraining orders requested.

If additional space is needed to complete proposed judgment, use 8-1/2" x 11" sheet of plain paper to type continuation, providing a date and signature line on the bottom of the page as shown on the judgment, and attach as "Page 2."

8. Notice of Entry of Judgment (original and two copies)
9. Three stamped envelopes; two addressed to the respondent and one addressed to the petitioner.
10. In RE Marriage of McKim (C. 3d 673 [1972]) requires a showing of "exceptional circumstances" prior to the court allowing default by affidavit. Generally, the court requires petitioner to appear and testify. A declaration of exceptional circumstances must be included if requesting a default by affidavit.

* *Before granting a dissolution order in any case involving children in which one or both parents of the child have not appeared either personally or by counsel; or if the other party has not been personally served, the Court will require the parent, petitioner, or other party appearing in the case to submit a certified copy of the child's birth certificate to the court.*

FAILURE to provide this certificate may result in a delay in processing your paperwork.

All judgments shall be complete and not incorporate Marital Settlement Agreements.

Ten days after receipt of all the above items and if no response has been filed, the clerk may then set the default hearing in one of the appropriate departments and direct the parties to appear at the time set for hearing.