

# **SUPPLEMENTAL PETITION TO MODIFY CUSTODY OR VISITATION AND OTHER RELIEF**

## **NOTICE TO PARTIES WHO ARE NOT REPRESENTED BY AN ATTORNEY WHO IS A MEMBER IN GOOD STANDING OF THE FLORIDA BAR**

This checklist is designed to help persons seeking to represent themselves in court without the assistance of an attorney. It is meant to serve as a guide only.

We do not guarantee that either the instructions or the forms will achieve the result desired by the parties or ensure that any individual judge will follow the procedures exactly or accept each and every form drafted. Any person using these instructions and forms does so at his/her own risk.

To obtain Florida approved forms visit the Florida Court Self Help website at [www.flcourts.org](http://www.flcourts.org).

Please note that Florida law prevents our staff from providing legal advice.

**AFTER all forms are filled out and NOTARIZED** you must have them reviewed by **Family Court Case Management**, which is located on the 2nd floor of the Lake County Courthouse. You **DO NOT** need to schedule an appointment to have your paperwork reviewed.

### **I. REVIEW OF DOCUMENTS WITH FAMILY COURT CASE MANAGEMENT**

Additional items to bring for review with Family Court Case Management

- If you are having the other party served you must have
  - a. An additional copy of the completed Petition
  - b. An additional copy of the completed Summons
- Three (3) stamped envelopes
  - a. One addressed to the Petitioner
  - b. One addressed to the Respondent
  - c. One left blank to be used if necessary

### **II. INITIAL FILING**

#### **A. Petition**

- Supplemental Petition to Modify Custody or Visitation and Other Relief- Form 12.905(a)
- Civil Cover Sheet-Form 12.928

## **B. Required forms filed with initial petition**

- UCCJEA Affidavit-Form 12.902(d)
  
- Income Deduction Order (Used in taking support from the other party's paycheck.)

**How do I get the support taken out of the other party's paycheck?** Unless the other party is self-employed, income deduction orders are usually entered in cases where support has been ordered. Once you have received this order, it is generally your responsibility to contact the Clerk of Court to obtain a "certified" copy of your income deduction order. It is then your responsibility to mail the certified income deduction order to the employer. It is suggested that you use certified mail so you have proof that it was received by the employer. If the other party changes jobs frequently, you may need to follow this procedure every time they change jobs.

The income deduction order is not made out to a specific job, it should be accepted by any employer (note: this should include employers in other states). The income deduction order makes the employer a party to the case.

**The FLSDU:** The State of Florida Disbursement Unit handles all income deducted support payments for the State of Florida. Their toll free automated number is 877-769-0251.

- Notice of Related Cases - Form 12.900(h)
- Notice of Social Security -Form 12.902(j)
- Financial Affidavit - Form 12.902(b) (If your income or your spouse's income exceeds \$50,000 you will need form 12.902(c), which may be found under Family Law Forms at [www.flcourts.org](http://www.flcourts.org).)
- Parenting Plan -Form 12.995(a) or 12.995(b) (Both Parties need to sign)
- Summons: Personal Service on an Individual -Form 12.910(a). Not required if the other party has signed a waiver of service.
- Process Service Memorandum - Form 12.910(b)

**Out of County/State Service Information:** If the other party resides outside of the county or the State of Florida, the party who filed the petition has two choices.

The first option is to complete and file the summons with the Clerk. The Clerk will sign and seal the summons, then return it to you. You then have the responsibility to forward the summons and paperwork to the out of county/state sheriff's office with the appropriate funds for service.

The second option: The party filing needs to contact the sheriff's office in the county which the other party resides in order to find out what is required for out of county/state service. Complete and file the summons with the Clerk. In addition, give the Clerk the payment required by the out of county/state sheriff and a pre-addressed stamped envelope addressed to the out of county/state sheriff. The Clerk's Office will forward the issued summons with the payment to the address provided for the out of county/state sheriff most other states will not honor a Florida Affidavit of Indigence.

### **C. Other forms**

- Disclosure from Non Lawyer -Form 12.900(a)
- Child Support Guidelines Worksheet - Form 12.902(e). 10/08 (If you do not know the other party's income, you may file this worksheet after his or her financial affidavit has been served to you.)
- Motion for Default Form 12.922(a)
- Default-Form 12.922(b)
- Notice of Trial - Form 12.924
- Marital Settlement Agreement-Form 12.902(f) (I)

### **III. SERVICE OF PROCESS**

#### **A. Personal Service**

- Summons returned "served" and the Original Return of Service has been filed with the Clerk
- After 20 days have passed from the day the Respondent was served, check to see if the Respondent filed an answer or any papers within the 20 day period.

#### **If your summons is returned to the clerk "NOT SERVED"**

**1. Alias summons:** Return to the Clerk of Court to request an **Alias** (2<sup>nd</sup> attempt at service) or **Pluries** (3<sup>rd</sup> or more attempt at service) service to be processed by the Clerk of Court.

- Complete Summons: Personal Service on an Individual Form 12.910 (a).
- Process Service Memorandum- Form 12.910(b).

**If you are still unable to serve the other party**

- 2. Constructive Service (Publication):** is only to be used after you have completed an actual diligent search for the other party and have been unable to locate them.
- Notice of Action for Dissolution of Marriage -Form12.913(a) Constructive service is also known as "service by publication." This form may be found under Family Law Forms at [www.flcourts.org](http://www.flcourts.org).
  - Affidavit of Diligent Search and Inquiry 12.913(b). This form may be found under Family Law Forms at [wwwflcourts.org](http://wwwflcourts.org).
  - If constructive service is used, the Court may grant only limited relief, in all cases it is best to have your petition personally served. This is a complicated area of the law and you may wish to consult with an attorney before using constructive service.**

**If proper service is not obtained, the Court cannot hear your case.**

**B. Default**

- Respondent failed to answer or file any paper after service
- Motion for Default filed with Clerk -Form 12.922(a) (no sooner than 20 days after date of service)
- Default entered by Clerk - Form 12.922(b) Note: If the other party has filed **anything in the case** the Clerk will not be able to process the Default. This is also true if the other party is a member of the military service. If the Clerk is unable to process your Default, you need to file a motion for the "court to enter the default" send a copy to the other party and set a hearing on your motion.

**AND**

- Notice for Trial-Form 12.924

**Only now is the case potentially ready for setting for trial/final hearing.**

**IV. FINANCIAL DISCLOSURE**

If your petition involves financial issues such as property, child support or alimony, each party has a right to the production of certain documents during the discovery phase of the case. See Fla. Fam. L.R. P. 12.285.

## V. SETTING A HEARING

**NOTE: IF YOU ARE INVOLVED IN OTHER CASES, SUCH AS AN ACTIVE DEPENDENCY CASE, YOUR CASE COULD BE REFERRED TO A FAMILY COURT JUDGE FOR HEARING. IF THIS IS YOUR SITUATION, PROCEDURES FOR SETTING A HEARING WILL BE SLIGHTLY DIFFERENT. PLEASE CONTACT THE FAMILY COURT CASE MANAGEMENT AT (352) 742-4301.**

- After an answer is filed or a Default has been entered, contact **Family Court Case Management to set your hearing.**
- If the other party filed a counter petition you are required to respond to their counter petition. To answer their counter petition use the Form 12.903(d)
- If the other party has filed a motion to dismiss your petition, a hearing must be set (by either party) to address the motion to dismiss before you can set a final hearing. Pending motions may also prevent your final hearing from being set as they must sometimes be addressed before a final hearing.
- Call Family Court Case Management to request a final hearing. Your court records will be reviewed for completeness and you will either be given a court calendar date or you will be given further instructions for setting your final hearing.

## VI. FINAL HEARING

- Make arrangements for child care if applicable. Children are not allowed to attend without prior Order, per Fla. Fam. L.R. P. 12.403.
- The Petitioner and the Respondent are required to attend final hearing. The modification will not be granted if both parties do not attend.
- When can I expect my final paperwork to arrive?** If you appeared at the final hearing you most likely will get your paperwork on that day. However, if you were not at the final hearing a copy will be mailed to you, a copy in the mail can take 10-14 days.

**"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator at the Office of the Trial Court Administrator, Lake County Courthouse, P.O. Box 7800/550 W. Main Street, Tavares, FL 32778-7800, Telephone (352)-742-4221, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711 or (352) 742-3890**