



Northwest Justice Project

# Responding to a Petition for Nonparental Custody

Forms and Instructions  
December 2008

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## Section 1: Introduction

### A. Should I use this packet?

This packet's intended to help you respond if you've been served with a Petition for Nonparental Custody. A petition for nonparental custody asks a court to give the petitioner permanent legal custody of the child/ren named in the petition. The person(s) asking for custody is the "petitioner(s)." The parents and any other parties who claim custody or visitation rights are "respondent(s)." In a nonparental custody case, the court can decide whether the child/ren will live with petitioner and, if petitioner has custody, the amount of time you may spend with the child/ren, your ability to make decisions about them, and the child support you must pay.

This packet doesn't describe the legal requirements for a nonparent to obtain legal custody of the child/ren. These requirements are strict because usually parents have a right to raise their children. For general information, see our publication [\*Nonparental Custody: Frequently Asked Questions and Answers\*](#), available at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

◆ Note on reading this packet: You'll see footnotes in this packet. Footnotes will tell you the law or court case that supports the statement that comes before the footnote, or will give you special tips, links to relevant websites, or other additional information. Use the legal references in the footnotes to look up the law at your local law library, or to tell the court when you're trying to make a legal argument. CR is the [Civil Rules of Washington](#). GR stands for [General Rules](#). RCW stands for [Revised Code of Washington](#), which is the law of Washington State. Court cases have names, such as *In re Custody of Child*. The references to the law are up to date as of the date this packet is published. The law sometimes changes before the packet can be updated.

**Remember: It's important to meet your deadlines!** When you receive legal papers, figure out quickly how to respond to the petition and to any motions. In many cases, if you miss your deadline(s), the other party will automatically get what they're requesting. It may take time to locate legal resources and to read this packet. Begin as soon as you receive the papers.

Before using this packet, talk with an attorney with family law experience. Even if you can't afford to pay an attorney to represent you, it's a good idea to meet with an attorney for advice or to look over any papers you've prepared. The "What If I Have Questions" section below contains some referral suggestions for free or reduced cost assistance.

◆ If you think the court lacks authority over you or to decide custody of the child/ren, see the description of jurisdiction in the section called "Deadlines and Some Legal Issues to Consider" and talk with an attorney.

## **B. What if I don't agree with the Petition?**

If you don't agree with the petition, follow the instructions in this packet for responding and participating in the case. If possible, talk with an attorney. If you file and serve a Response objecting to the petition, and also participate appropriately in the case, then the nonparent shouldn't obtain permanent legal custody of the child/ren unless the court decides that the parent(s) are unfit or that it'd be detrimental (harmful) for the child/ren to live with a parent.

Provide evidence to the court that you're a suitable custodian for the child/ren and that it wouldn't be detrimental to them to live with you. If the child/ren are in your physical custody, tell the court so. Bring up any concerns you have about the petitioner as a suitable custodian for the child/ren or concerns about adult members of petitioner's household.

◆ If you disagree with the petition but don't participate in the case, the court may grant the petitioner's requests.

## **C. What if I agree with the Petition?**

If you agree that the child/ren should be in petitioner's **permanent** legal custody, but you don't agree with other things petitioner asked for in the papers you received, then follow the instructions in this packet for responding and participating in the case. You may, at the same time, negotiate with the petitioner to try to reach agreement on all the issues. If you do reach agreement, then see the section called "Settling the Case by Agreement." If you don't reach agreement, prepare for trial.

If you agree with everything requested in the petition and any related paper such as a proposed Residential Schedule and Child Support Worksheets, you have at least two alternatives: signing a joinder form, or signing the final papers. By signing a joinder form, you're saying that you agree with the requests in the petition. However, we recommend that, instead, you review the proposed final papers after petitioner prepares them and then sign the proposed final papers if they correctly show your agreement. That way you can be surer that the final papers are what you agreed to. (See the section called "Settling the Case by Agreement.")

## **D. What if I agree to the petitioner having custody, but only temporarily?**

If you agree that petitioner may have temporary custody, but you don't agree that petitioner should have permanent legal custody, follow the directions in this packet for responding and participating in the case. At the same time, try to negotiate for an alternative to a nonparental custody decree (perhaps a Temporary Parental Consent Agreement) and for an order dismissing the Nonparental Custody Petition.

If this doesn't work, try to negotiate for temporary orders or for a Nonparental Custody Decree that states the exact time or conditions under which the child/ren will be returned to you and the contact you'll have with the child/ren until that time. If you don't reach an agreement, prepare for trial.

If the final Nonparental Custody Decree signed by the court places the child/ren with petitioner and doesn't state conditions under which the child/ren will be returned to you, it may be difficult to have the child/ren returned to you in the future. An improvement in your own circumstances won't be enough to get the child/ren back in your full legal custody. You'd have to meet the difficult legal standard for modifying custody orders. That standard would require you to show detriment to the child/ren by staying with the nonparent. See also [\*Nonparental Custody of a Child: Frequently Asked Questions and Answers\*](#).

**E. What if I'm in the military or am the dependent of a military service member?**

If you're on active duty in the military or are the dependent of certain active duty service members, you may have special legal protections. Before you file any papers with the court and well before your deadline for filing, get legal advice about your rights. Talk with your JAG office or an attorney who knows about the federal and state Service Members Civil Relief Acts. For general information, see the section on military service members and their dependents later in this packet.

**F. What if I have questions that aren't answered in this packet?**

It is always a good idea to talk with an attorney familiar with family law before you file anything with the court. Many counties have family law facilitators who can help you fill out forms, or have free legal clinics where you may get specific legal advice about your case. If you are low-income and you do not live in King County, you may call CLEAR at 1-888-201-1014. If you live in King County, you may contact the King County Bar Association's Neighborhood Legal Clinics by calling (206) 267-7070 between 9:00 a.m. and noon, Monday – Thursday, to schedule a free half-hour of legal advice (ask for a family law clinic). You may also want to go to the website ([www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)) and read our legal information publications about your particular family law case and information about legal aid programs in your area.

## Section 2: Forms

### A. What forms will I need?

#### 1. Most people will need the following forms from this packet:

Form Title	Form Number
Response to Nonparental Custody Petition	WPF CU 01.0300
Confidential Information Form and Addendum	WPF DR PSCU 09.0200 & 09.0210
Pro Se Notice of Appearance	WPF DRPSCU 01.0320
Declaration	WPF DRPSCU 01.0100
Certificate of Mailing or Personal Delivery	No Mandatory Form <sup>1</sup>

#### 2. Many people will need the following forms located in the [Residential Schedules and Child Support in Nonparental Custody Cases](#) packet.

Form Title	Form Number
Child Support Worksheets & Washington State Child Support Schedule	
Financial Declaration	WPF DRPSCU 01.1550
Sealed Financial Source Documents Cover Sheet	DRPSCU 09.0220
Residential Schedule	WPF CU 01.0450

#### 3. Some people will use the following forms in this packet:

Form Title	Form Number
Sealed Personal Health Care Records (Cover Sheet)	WPF DRPSCU 09.0260
Sealed Confidential Report (Cover Sheet)	WPF DRPSCU 09.0270
Order re Adequate Cause	WPF CU 02.0400
Joinder of Respondent	WPF DRPSCU 01.0330
Waiver of Rights Under the Service Member's Civil Relief Act	No Mandatory Form
Notice of Military Dependent Status	No Mandatory Form

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<sup>1</sup> A mandatory form is a legal form produced by the Washington State Office of the Administrator of the Courts. In family law cases, there are mandatory forms that must be used in every case. However, in some situations, no mandatory form exists. We've created some of these forms for your use. Just below the title of the form are the words "No Mandatory Form Available."

**4. If child support or financial relief is requested, you should gather documentation showing your financial situation. You may need:**

- Your last two years of income tax return forms, with your W2s and other attachments; and
- Your pay stubs. In some counties, you may need the last six months, or back to January 1<sup>st</sup>. Check your local court rules.
- Proof of other sources of income (such as Social Security, unemployment compensation or TANF).
- Some counties require additional evidence, such as six months of bank statements, etc. Check your local court rules.

**B. Where can I get other forms I need?**

You may need more than the forms in this packet to respond to and finish the case. Read the information below carefully and check the boxes by the other packets you need. Use the checklists at the end of this packet to see if you've prepared the right forms. Get the other packets you need at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), or, if you're low-income and don't have internet access and a printer, by calling CLEAR at 1-888-201-1014.

- Residential Schedules and Child Support in Nonparental Custody Cases.** Forms and instructions for residential schedules, child support worksheets, the Sealed Financial Source Documents Cover Sheet, and financial information are in this packet.

Some counties require a Residential Schedule. A Residential Schedule is a detailed order that states the visitation for the parents if the petitioner has custody. It also addresses other issues related to the care of the child. Even where not required, you may want a residential schedule anyway, to state a detailed plan for times the child/ren will spend with each party if the petitioner wins custody. This form's not used if the court denies the petition.

In most cases, parent(s) are expected to pay child support if the petitioner gets custody of the child/ren. Most parents will need the child support forms in this packet. However, child support shouldn't be set against a parent who's had no contact with the State of Washington.

- Declaration Regarding Public Assistance: WPF SRPSCU 01.0600: Get this form at the Administrator of the Courts website <http://www.courts.wa.gov/forms/index.cfm?fa=forms.static&staticID=14>. We haven't included it in our packets because it's an optional form, and because our instructions tell you to serve the State in any case where TANF, Medicaid, or foster care are involved, and we instruct you to get the state's signature on all default and agreed orders where the state might have an interest in the child support obligation in your case. However, some people may need the form if it's required in your county or if you need to verify that no public assistance has been paid or that the children aren't in foster care or out of home placement.

- ❑ **[Serving Papers on the State](#)** - If any party's asking for an order regarding child support, and any of the children has received public assistance (TANF), or medical coupons/Medicaid or is in foster care or out of home placement, get this packet: [Serving Papers on the State](#). You'll need to include the state as a party and serve them with papers you file.
- ❑ **County Local Court Procedures, Forms, and Rules** – Some counties have special requirements which aren't in this packet. Check with the court clerk's office or family law facilitator in your county for more information.
- ❑ **[How to Subpoena Witnesses and Documents](#)** - Use this packet – [How to Subpoena Witnesses and Documents](#) - to make sure important witnesses or documents are available for your trial.
- ❑ **Motions for Temporary Orders or Emergency Orders.** The period of time between the beginning and end of the case can be several months or longer. During this time, the parties may file motions for emergency or temporary orders, such as for custody, child support, restraining orders, or appointment of a Guardian ad Litem.

A temporary order's issued by the court after a hearing. It lasts until the expiration (end) date in the order, or until replaced by another temporary order, or until the case ends. An emergency order's issued by the court, often without notice to the other parties, but only in urgent situations. An emergency order lasts for only a short time, usually until a temporary orders hearing is held.

See our packets [Filing a Motion for Emergency Orders in a Nonparental Custody Case](#) or [Filing a Motion for Temporary Orders in a Nonparental Custody Case](#).

- ❑ **Petition for Order for Protection (Domestic violence: WPF DV 1.015):** Complete this form and perhaps related forms if you're asking for an Order for Protection as part of your nonparental custody case, or if you're asking the court to change your Order for Protection as part of the nonparental custody case. Get the forms from your county clerk's office, domestic violence advocacy program, or online at <http://www.courts.wa.gov/forms/?fa=forms.contribute&formID=16>. **Important: attaching a Petition for an Order of Protection to your nonparental custody petition doesn't give you any immediate protection order. It only asks the court to enter a protection order at the end of your case.** (Note that the "Petitioner" on the Protection Order form is always the protected person, even if s/he's the respondent in the family law case).

If you're considering asking for an Order for Protection, get individual legal advice, because of the special issues involved in combining the protection order case with a nonparental custody case. This packet doesn't explain how to combine the cases.

- ❑ **Responding to Motions for Temporary or Emergency Orders** – You may be served with emergency orders obtained by another party or with a motion for temporary orders. See our packet [Responding to a Motion for Temporary or Emergency Orders in a Nonparental Custody Case](#).
- ❑ **Appointing a Guardian ad Litem (GAL).** If you need or want to ask the court to appoint a Guardian ad Litem to investigate all parties and make a recommendation about the child's best interests, consult our publication [Filing a Motion for Temporary Orders in a Nonparental Custody Case](#).

- ❑ **Finishing Your Nonparental Custody Case.** This packet contains instructions and forms to finish a nonparental custody case. The case isn't over until the court signs final papers, granting or denying nonparental custody or dismissing the petition. Many of the instructions included in this packet are written from petitioner's point of view, because petitioner typically prepares the final papers if s/he's receiving custody or if s/he chooses to drop the case. However, the general information about how to finish a case can be useful to both parties. In addition, respondent might use some of the forms in this packet if s/he wins at trial.

For a complete list of our publications, call your local legal services office (see yellow pages under "Attorneys" and look for Northwest Justice Project), or visit the web site at <http://www.washingtonlawhelp.org>.

◆ **Warning:** This packet doesn't tell respondents how to make claims against other respondents. For example, if you're a respondent parent and the other respondent is also a parent, this packet doesn't tell you how to request that you, rather than the other respondent, receive custody if the court doesn't give petitioner custody.

### **Section 3: Words You May Need to Know**

Adequate cause hearing – (sometimes called threshold hearing): A hearing to decide whether the non-parent petitioner(s) have presented enough evidence to allow the case to proceed or whether the petition should be denied before trial.

Affidavit: A written statement made under oath and notarized by a Notary Public. Affidavits are no longer required in Washington; instead, the courts use Declarations.

Alleged father: The man (or men) who might be the father of a child, but whose paternity has not been legally established. See [RCW 26.26.011\(3\)](#).

Appearance: Informing the court and the parties of your whereabouts and your desire to participate in your case, either in person at a Court hearing, or in writing, usually by filing and serving a Notice of Appearance. Certain informal actions, such as negotiating, telephoning about the case, or writing a letter, that show a knowledge of the claims in the case and an intent to defend, might also be considered an appearance.

Attachment: a document stapled to a court form and referred to in the form. Attachments should follow the format rules for court forms. (Basic information about the format rules is in the General Instructions section of this packet.)

Bailiff: A member of the judge's staff who is in charge of courtroom procedure and security. The bailiff may sometimes be the same person as the clerk.

Calendar: The court's schedule of cases to be heard, also called a Docket.

Caption: The heading of each legal document, which contains the name of the court, the names of the parties, the case number, and the name of the document itself.

Case Schedule: A printed schedule issued by the court in some counties showing major dates and deadlines in your case

Certified Copy: A copy of a document from the court file made by the court clerk that has an official stamp on it stating it is a true copy. Usually you must pay for a certified copy.

Clerk of the Court: An officer of the court who handles clerical matters like keeping records, entering judgments, and providing certified copies. In each courthouse, there is a Superior Court Clerk's Office. Someone from the clerk's office staff is also usually in the courtroom during hearings.

Commissioner/Court Commissioner: This person is similar to a judge but only makes decisions relating to a specific subject matter. Many counties have family law commissioners who decide cases only about family law<sup>2</sup>.

Confirm a Hearing or Trial: Notifying the court that you still plan to have the hearing or trial scheduled in your case. The way to confirm your hearing or trial differs from county to county and it is not required in all counties. Often a phone call to the court a few days before the hearing

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<sup>2</sup> Many decisions in family law cases are made by court commissioners instead of judges. However, to make this packet simpler, in most places we just use "judge."

or trial is required. Local rules explain each county's requirements. If notice is required and not given, the hearing or trial may be cancelled.

Conformed Copy: A copy of any court document that has been filed with the clerk. It must be stamped with the date filed. If the document is an order, it must also have the name of the judge who signed it written or stamped on it.

Contested Case: A case in which opposing parties participate and disagree about the outcome of the case.

Continuance: Delaying your court hearing to a later date. In some counties the judge must approve any request for a continuance.

DCS: Division of Child Support: The state office (part of DSHS) that establishes, enforces and sometimes modifies child support obligations in many cases. DCS used to be called CSD, OSE and SED.

Declaration: A written statement made to the court under oath.

Decree: One type of final court order.

Default: The failure to respond to court papers within the legal deadline.

Default Order: An order that can be requested if the respondent fails to file a Response before the deadline, or, if s/he has appeared in the case, if s/he fails to file a Response after being served with a Motion for Default.

Dispute Resolution: The part of the parenting plan that states how the parties will try to resolve disagreements about the parenting plan (for example, mediation, counseling, court action). A Residential Schedule form usually does not have a dispute resolution provision.

Dissolution: The legal word for divorce.

Docket: The court's schedule of cases to be heard on a particular day.

Ex Parte: Going before the court without notifying the other party. Sometimes also refers to the courtroom where you see a judge without notifying the other party.

Ex Parte Restraining Order: An order signed by the judge if emergency circumstances require protection before a temporary hearing can be held.

Exhibit: Documents, records, and photographs introduced into evidence at trial or hearing. Attachments to legal forms might also be called exhibits.

Filing: Giving court papers to the Court Clerk to place in the case file.

Guardian ad Litem (GAL): A GAL is a person the court appoints in some cases to investigate the issues and make recommendations to the court about the children's best interests. If a GAL is appointed, s/he is a party and has to be served with papers filed.

Hearing: Going before a judge to request a court order or to defend against another party's request. Hearings usually take place before the trial date and concern specific issues for example, temporary relief. Hearings on important issues, for example, motions to dismiss, may end the case. In many counties the court does not allow live witness testimony at hearings, but the parties are expected to file and serve materials in advance in writing. In some counties, the outcome of certain types of modification cases may be decided by hearing rather than by full trial.

ICWA: Indian Child Welfare Act, a federal law that applies when a child is or may be an Indian Child.

In Forma Pauperis (IFP): A Latin term which means you may file your papers in court without paying the filing fee if you have a low income and show you cannot afford the fee.

Involuntary Dismissal: A court order ending the case without petitioner receiving any permanent relief requested in the petition. An involuntary dismissal usually happens over petitioner's objection. A written court order of dismissal needs to be entered if the judge orally orders the case dismissed. If the case is dismissed, temporary orders end.

Judgment: One type of final court order.

Jurisdiction: The court's authority to make decisions regarding certain people and issues. If a court does not have jurisdiction, it does not have the authority to make orders over the person or issue. In a child custody case there are two types of jurisdiction involved – there is "subject matter jurisdiction" which is jurisdiction to decide about the custody of the child, and there is "personal jurisdiction" which is required if the court is to decide about child support and, in some circumstances, paternity. Sometimes a court will have jurisdiction to decide one issue but not the others. (This usually happens when the child has been living in a state where the parent(s) has never lived.)affected.

Mediation: A meeting between the parties to a court case and a neutral third party (such as a mental health professional, judge, retired judge, or attorney not otherwise involved in the case), during which the parties try to mediate, or reach an agreement, about all of the legal issues in their case.

Modification/adjustment case: A court case for a major or minor modification or an adjustment of a parenting plan/residential schedule/custody decree. Modification/adjustment cases are also sometimes filed to change child support.

Motion: A formal request to the court for an order, usually about a specific issue.

Motion Docket: The court's schedule of motions to be heard.

Moving Party:

- in modification/adjustment cases, the moving party is the person who files the petition for modification/adjustment.
- in motions, the moving party is the person who filed the motion.

The moving party can be either a Petitioner or the Respondent in the original case.

Nonmoving party:

- in modification/adjustment cases, the nonmoving party is the party who did not file the petition for modification/adjustment.
- in motions, the nonmoving party is the person who did not file the motion.

The nonmoving party can be either a Petitioner or the Respondent in the original case. In nonparental custody cases there is often than one nonmoving party, such as other petitioners or respondents or the State of Washington, a Guardian ad Litem.

Note/Notice of Hearing/Note for Motion Docket: A form which lets the clerk know to schedule a hearing and tells the other parties the subject of the hearing and when and where the hearing will take place.

Notice of Appearance: A paper filed with the court and served on the other parties showing that a party wants to participate in the case and where to send papers filed about the case in the future.

Order: A court document signed by a judge that requires someone to do or not do something. Restraining orders, orders re adequate cause, Residential Schedules or decrees, are all examples of orders, if the judge has signed them. If you disobey an order of the court, you may be held in contempt of court. It is important to notice if an order you are served with is only a proposed order or if the judge has actually signed it. An order is not in effect until a judge has signed it. (See “proposed order” definition.)

Order to Show Cause: A court order scheduling a hearing and requiring a person to come to court at the time and place set for the hearing.

Other party: Every party to the case, other than yourself.

Parentage Case: A court case to determine parentage (paternity) of a child of unmarried parents, or a court case to establish a parenting plan/residential schedule for a child whose paternity was established by paternity affidavit or a modification of a parenting plan/residential schedule order in one of these types of cases.

Parenting Plan: In dissolution and some parentage cases, a proposal or, if signed by a judge, a court order which states when the child will be with each parent, who will make major decisions about the child, and how future disputes about the child will be resolved. In parentage cases, the parties may have either a parenting plan or a (parentage) residential schedule. The residential schedule form does not include the dispute resolution or decision-making parts of a parenting plan form. Parenting plans are not used in nonparental custody cases to award the nonparent custody.

Party: Anyone listed on the court papers as a Petitioner or Respondent. GALs and the State of Washington may also be parties.

Paternity (or Parentage): A legal determination of who the father of a child is, generally either through a court order in a paternity case, or with a valid paternity affidavit or by an un rebutted presumption of paternity (The presumption usually appears where a man and woman were married to each other when the child was born or shortly before or after the child’s birth). See [RCW 26.26.101\(2\)](#) for a complete definition.

Paternity Affidavit: A special form, also known as an Acknowledgment of Paternity or Paternity Acknowledgment, typically used by unmarried parents to state who the father of the child is. In Washington, these forms are often offered to the mother in the hospital right after a child’s birth. The form must be signed by the mother and the father (and presumed father) of a child, and must have been filed after July 1, 1997, to be a conclusive legal determination of paternity. For more information, see our publication [Parentage and Parenting Plans for Unmarried Parents in Washington](#). Signed paternity affidavits may be rescinded or challenged for a limited time.

Petition: The document that starts a case and asks the court for a decree, judgment, or final order.

Petitioner: The person who first files a legal case. The petitioner in the caption of a form does not change even when motions are filed later by the other party.

Presumed father: A man who is presumed by law to be the father of a child. You may find the legal definition of presumed father in [RCW 26.26.116](#). In general, a man is the presumed father of a child if:

- The child was born while the man was married to the child’s mother; OR
- The child was born within 300 days after the man’s marriage to the child’s mother was ended by divorce, separation, annulment, declaration or invalidity, or death. In general, if the man and the woman thought they had gotten married, even if the marriage is found to be invalid, the child is presumed to be the man’s child.
- The man and the child’s mother married each other after the child was born, the man has voluntarily said he was the child’s father AND the man agreed to be on the child’s birth certificate, or signed an affidavit of paternity, or promised (in writing or another record) to support the child as his own.<sup>3</sup>

Pro Se: Acting without an attorney; representing yourself in court.

Process: Written notice to appear in court.

Proposed Order: A document one party will be asking the judge to sign. It will not yet have the judge’s signature on it. Many counties require the parties to file and serve proposed orders with motions or responses to motions to show how that party wants the court to decide the motion. Even where proposed orders are not required, we recommend that you prepare and serve them and deliver copies to the court. A proposed order becomes an order if the judge signs it.

Residential Schedule: A proposal or, if signed by a judge, a court order which states when the child will be with each party. In nonparental; custody cases, if the nonparents are awarded custody the court may sign a residential schedule. (The nonparental custody residential schedule form differs from the parentage residential schedule form.)

Respondent: The person against whom a legal case was originally filed.

Response: A formal written answer to a Petition filed with the court by the Respondent. The term can also be used to describe the papers a person files in response to a motion, so it can be confusing. We will use the word “Response” with a capital “R” to refer to the Response form. We will say “response” with a small “r” to refer to all types of responses, including for example, responses to motions as well as to petitions.

Restraining Order: A court order to prevent a party from doing some act that may harm the other party or child.

Ruling: A decision by the court.

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<sup>3</sup> This definition of presumed father has been simplified to try to make it easier to understand. It is current as of the date of this publication. If you have questions about whether there is a presumed father in your case, you should read [RCW 26.26.116](#), and you may need to consult an attorney.

Service: Giving court papers to the other party in a legally correct way. When a petitioner starts a case, s/he must arrange for the Summons and Petition and other papers that begin the case to be properly hand-delivered or, in some cases and where allowed where the respondent cannot be found, sent by certified mail or published in a newspaper. After the initial Summons and Petition have been served, many later papers can be served by first class mail, with legally sufficient advance notice.

Settlement Conference: A formal meeting between the parties to a court case and a neutral third party (such as a judge, retired judge, or attorney not otherwise involved in the case), during which the parties try to settle, or reach an agreement, about all of the legal issues in their case. Some counties require parties to family law cases to have a settlement conference before going to trial. Some counties have programs to provide family law settlement conferences available free of charge.

Summons: A written notice that a case has been started.

Temporary Order: An order entered after a case is filed and before it is finished which is only in effect while the case is going on. In some counties, temporary orders may end at a fixed time, even before the case ends.

Time to Respond: (or deadline to respond): The length of time a party has to respond to something filed by another party. The length of time to file a Response to a Summons is 20 to 90 days after service, depending upon the type and location of service. The length of time to respond to motions is usually much shorter.

Transfer Payment: The amount of money one parent is ordered to pay as that parent's share of basic child support

Trial: The proceeding at which the judge listens to live testimony from parties and witnesses, considers evidence properly introduced, hears argument, and decides the outcome of the case.

Venue: The county where the case should be filed. Proper venue depends upon the type of case.

Voluntary Dismissal: Petitioner's decision to drop the case. If petitioner decides to drop the case a court order dismissing the petition should be entered. If a written order of dismissal is entered, temporary orders end.

Working Papers: A copy of papers filed with the court that is delivered in advance of the hearing for the judge to review. Local rules differ as to whether working papers are required or, if they are required, when and where they are delivered. Some counties require working papers to be delivered at or near the time you file a motion or response.

## Section 4: Steps to Take to Respond to a Petition for Nonparental Custody

The following steps describe one way to respond to a petition for nonparental custody. Nonparental custody cases aren't handled the same way in every county, **so the steps might not be identical in your case.** Many of the steps listed in the paragraphs below are explained in more detail later in this packet.

If a nonparental custody case has been started against you, you should've received a Summons and a Petition. You may also have received or may soon receive a Motion for Adequate Cause and/or for Temporary Orders, an Ex Parte Restraining Order/Order to Show Cause, a Notice of Hearing for Adequate Cause Determination, Declarations, and/or other papers.

- ❑ **A. Figure out how much time you have to respond.** Look at each paper you received. The Summons should tell you how much time you have to file your Response, but look also at the rules in the "Deadlines and Some Legal Issues to Consider" section of this packet to make sure that you know your deadline. Also, look carefully through all of the papers to find out if you were served with a motion for temporary orders (either a Motion for Temporary Orders or Ex Parte Restraining Order/Order to Show Cause) or with Notice of an adequate cause hearing, as well as a petition. If you were, remember: **deadlines can be different for each pleading. Know your deadline for each.**

Write your deadlines here:

- **Petition:**
  - My deadline to Respond to the Petition is \_\_\_\_\_
- **Adequate Cause Hearing** (Fill in these deadlines if you received a Notice of Hearing for Adequate Cause Determination, or other local court form scheduling this hearing, together with the petition.) If you didn't receive a paper scheduling the adequate cause hearing, fill in these deadlines later, if you receive notice of the adequate cause hearing date. You should receive notice of this hearing date unless you fail to file a Response to the petition or unless you agree to an Order re Adequate Cause.
  - The date of the adequate cause hearing is \_\_\_\_\_.
  - The deadline to respond to the Notice of Adequate Cause Hearing is \_\_\_\_\_.
- **Notice re: Dependent of a Person in Military Service**

If you received this notice and are the dependent of a military service member as explained in the notice, notify petitioner and the court within 20 days after you received the notice.

  - The deadline to respond to this notice is \_\_\_\_\_.
- **Temporary Orders/Orders to Show Cause** (Fill in these deadlines if you received, or later receive, a Motion for Temporary Order or an Ex Parte Restraining Order/Order to Show Cause.) See the list of publications in Section 1

for resources to respond to these motions.

- The Temporary Orders/Show Cause hearing date is \_\_\_\_\_.
- The deadline to respond to a Motion for Temporary Orders or an Ex Parte Restraining Order/Order to Show Cause is \_\_\_\_\_.

**Write other deadlines here:** \_\_\_\_\_

**B. Read the papers carefully.** Read the papers carefully to find out what the petitioner’s asking for. Use a yellow highlighter pen to mark things that you want to respond to. If possible, take the papers and ask an attorney (NOT petitioner’s attorney) to read through them and give you advice about what to write in your response. Look for:

- The date, time and place of any hearings
- Your deadlines
- What the petitioner’s asking for
- Claims the petitioner has made about you or the case, and what evidence (petition, declarations and documents) they use to prove their claims

Understand what the papers say so that you can write a good response and prepare for your hearings.

**C. If you received an Ex Parte Restraining Order/Order to Show Cause, follow the court order.** An Ex Parte Restraining Order signed by a judge is effective immediately, without advance notice to you. Before the hearing date in the Order, you **must** follow the order.<sup>4</sup> Example: if the order tells you to stay away from the petitioner, do so, even if s/he invites you to come over. If you have questions about the order, or if you want to try to cancel the order before the hearing date, talk with an attorney.

**D. Make any challenges to the court’s jurisdiction or other legal motions.** This packet doesn’t describe jurisdiction or motions in detail because the reasons for legal challenges are too varied. The section called “Deadlines and Some Legal Issues to Consider” lists a few issues that might be raised in appropriate cases. Talk with an attorney about these issues.

**E. If you received (or later receive) an ExParte Restraining Order/Order to Show Cause or a Motion for Temporary Orders, prepare for and attend the Show Cause/Temporary Orders hearing.**

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<sup>4</sup> It’s also possible to ask the court to vacate (cancel) the order before the hearing date. Until the order is vacated, changed, or expired, obey it. This packet doesn’t contain forms or instructions to vacate the Order.

## ❑ 2. Check for and use Special Local Form, Procedures and Rules.

Local court requirements will affect how to handle your case. Many counties have special forms or have other local rules you must follow. Many counties require case schedules, classes, or settlement conferences. **It's very important for you to learn and follow local court requirements.**

Call the court clerk's office or family law facilitator for the court where your case is taking place to find out about these local requirements. Tell them the kind of family law case you have (examples: dissolution with or without children, nonparental custody petition, parentage case, contempt, modification of child support or parenting plan, a motion for \_\_\_\_\_). Requirements may differ based upon the type or stage of your case.

Read your local court rules. They're available at your county's law library and often on line at [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.local&group=superior](http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=superior)

Look at the *Words You may Need to Know* section of this packet if you don't know any of the words used here.

Find out about at least the following items:

- whether the county has its own packets or forms for your type of family law case; if so, use those instead of ours. If you use our packet, get any additional local forms that you'll need.
- whether case schedules are used (and whether the court requires the person filing the case to serve the schedule on the other parties)
- whether parenting classes, mediation, or settlement conferences are required
- what the deadlines are for filing and serving motions and responses to motions
- whether there's a limit on the number or length of documents you file with motions or responses
- whether you need to confirm hearings a few days beforehand and give working papers to the judge before the hearing
- whether proposed orders need to be served with motions and given to the court in advance.
- whether a Residential Schedule's required in your county if the petitioner's awarded custody
- what the local procedure and timing are for obtaining an Order re Adequate Cause and, if a party wants emergency and/or temporary orders, the availability and procedure for requesting them before an adequate cause decision's been made
- how the court handles background checks and screening<sup>5</sup>

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<sup>5</sup> Since 2003, [RCW 26.10.135](#) has required that the court consult the judicial information system to determine the existence of any information and proceedings that are relevant to the placement of the child before the court grants a custody order in nonparental custody cases. In 2007 a similar requirement, and a requirement that a screening and potentially a full assessment be done if domestic violence or child abuse were alleged, were added to dissolution of marriage and parentage cases. See [RCW 26.09.182](#) and [RCW 26.09.191\(4\)](#). It's not yet clear how the 2007 law will change the practice in nonparental custody cases. Ask about the procedures in your county.

- whether there's any program allowing a GAL or evaluator to be appointed at no or reduced cost, and whether there are special local forms to have a GAL or evaluator appointed

◆ Important Scheduling Note: Counties in the state handle these cases very differently from each other. Example: some allow adequate cause hearings or hearings on temporary orders to take place before the deadline for filing your Response has passed. Others won't allow these hearings to take place so early, except in an emergency. **Learn and understand your local court procedures.**

◆ **Note for Survivors of Domestic Violence:** If another party has a history of physically harming you or the child/ren or has threatened to do so, and if you've had a dating, roommate, marital, or family relationship with that party, file a Petition for an Order for Protection if you need immediate protection. Orders for Protection offer strong safety restraints. For more information [\*Domestic Violence: How the Legal System Can Help Protect You\*](#), contact your local domestic violence program, or call the 24-hour domestic violence hotline at 1-800-562-6025. **Orders for Protection may, however, be limited in their ability to make residential provisions for the child.<sup>6</sup> If you're not the child's parent and you need a Protection Order, talk with an attorney, if possible.**

◆ Orders of Protection may sometimes be combined with **final** orders in nonparental custody cases, but this packet doesn't give details about how to do that.

◆ If you apply for an Order for Protection, or if you want to combine the two types of cases, get individual legal advice about how the Order for Protection process relates to the nonparental custody case.

❑ **G. Gather your evidence.** If possible, get the evidence you'll need now, for use when you're filling out your forms. Think carefully about whether there's information that will help show that what you're telling the court is correct or that what the petitioner is telling the court isn't true. Examples include:

- **Declarations of Witnesses** – Declarations (sworn written statements) by you and by other people who have personal knowledge about you, the other parties, or the child/ren. See the section containing instructions for the Declaration form for more information about declarations.
- **Records** –examples: bills and receipts, records of past criminal convictions, medical or mental health treatment, grades and other school records, and daycare records.

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Petitioners are also required to have CPS checks in nonparental custody cases. See also the text later in this packet for an explanation of additional background checks required in nonparental custody cases.

<sup>6</sup> See [RCW 26.10.115 \(3\)](#)

- **Photographs** – if they help prove or disprove one of the issues in the case.
  - **Financial Information** – if financial issues are included, get evidence of your income and assets, and perhaps evidence of the other party’s income and assets. Examples: federal income tax returns, bank account statements, business records, 1099 forms, or official letters from Social Security, Labor and Industries (L&I), Employment Security, or DSHS saying how much you receive in benefits.
- H. Decide which forms and packets you’ll need and complete those forms.** Most people will need the Response, Pro Se Notice of Appearance, Declaration, Confidential Information Form and addendum, and Certificate of Mailing or Personal Delivery. If child support’s been requested, complete the child support worksheets, financial declaration and sealed financial source documents form, and gather the proof of your financial situation. Many people will also need a Residential Schedule form. See [Residential Schedule and Child Support in Nonparental Custody Cases](#) packet. You may need or want additional forms.
  - I. Make the Necessary Copies of the completed documents.**
  - J. File your original Response and other papers with the superior court clerk** in the courthouse of the county where the petition was filed.
  - K. Serve the papers on the other parties.**
  - L. Prepare and file your certificate of mailing or personal delivery**
  - M. Read any papers you receive in reply to the ones you filed.**
  - N. File a motion for temporary orders or a motion for emergency orders, if you want these, and attend the hearing.** Forms and instructions are available in our packets [Filing a Motion for Temporary Orders in a Nonparental Custody Case](#) or [Filing a Motion for Emergency Orders in a Nonparental Custody Case](#).
  - O. Respond and participate in the temporary orders/show cause hearing if another party has scheduled one.** Forms and instructions to respond are available in our packet [Responding to Temporary or Emergency Orders in Nonparental Custody Cases](#). If you’re responding to a motion, find out when your response to the motion’s due – it may be due before your Response to the petition.
  - P. Prepare for and attend the adequate cause hearing.** At the adequate cause hearing, the court decides whether the petitioner can proceed to trial or whether the petition will be denied.
  - Q. File a motion to appoint a Guardian ad Litem, if you want one.** And, if a guardian ad litem (GAL) or custody investigator is appointed, cooperate with the investigation.

In some cases, especially cases where a party’s accused of abusing another party or a child, or is accused of having drug, alcohol or other problems, the court may appoint a guardian ad litem (GAL) or other investigator. That person would investigate the legal claims and circumstances of the child/ren and the parties and make a recommendation to the court about what’s in the child/ren’s best interests. The court may also decide to appoint a GAL for other reasons. Some counties require a GAL investigation in every case. Some courts may order a CASA or Family Court Services investigation rather than appoint a GAL. Check with the court clerk or family law facilitator to learn what programs are available in your county, what costs are involved, and what special forms (if any) you need. Any party can ask the court to

appoint a GAL, or the court can decide to do so on its own. Information and forms are available in the packet [Filing a Motion for Temporary Orders in a Nonparental Custody Case](#).

If you're not sure whether to file a motion to appoint a GAL, read our publication called [Working with GAL's and Parenting Evaluators](#) and [Nonparental Custody in Washington: Frequently Asked Questions and Answers](#).

- R. Ask for discovery, if you want it.** Discovery is the process of gathering information that may be needed to reach a settlement or be able to present your case at trial. Through the discovery process you can learn about how the petitioner views the case, and you can ask the other parties or witnesses for information and documents that could help you prove your case if you go to trial. To find out about discovery and how to request it, see an attorney. The family law facilitator may be able to give basic information.
- S. Participate in locally required classes, status or settlement conferences, and mediation.** Many counties require the parties to attend special parenting classes given by the court. Some counties require mediation, settlement conferences, or status conferences. Find out the procedures in your county and follow them.
- As the case goes on, make sure you give other parties proper notice of other papers you file in your case.**
- Keep a copy of all documents that you file with the court or that you receive from other parties for your own records. Create your own file folder for these papers and take them with you when you have hearings in your case.
- T. Finish the case.** The case can be finished by agreement, by default, by dismissal, or by trial. Our packet, [Finishing Your Nonparental Custody Case](#), describes the process for finishing the case, mainly from the petitioner's point of view. That packet's useful to respondents for general information and also if respondents are preparing final papers after trial.

## Section 5: Deadlines and Some Legal Issues to Consider

◆ If the petitioner didn't give you all of the legal papers s/he should've, you have the right to ask the court not to give him/her the relief s/he's asking for. First, write a letter to the other party or his/her attorney and list the legal papers that you believe you should've received but didn't. If you get the papers late or don't get them, write in your responses that you didn't get all of the papers as required, and attach a copy of your letter.

### A. Figure Out How Much Time You Have To Respond

When you're served with the petition and other papers, look at each one.

#### 1. **Filing a Response to the petition.**

Find the form called a Summons, which you should've received with the Petition. Your Summons should say how many days you have to file and serve a Response after the date you received the papers, or look at the deadlines that follow.

If you were served in person in Washington, you have 20 DAYS to file and serve your Response to the summons and petition. If you were served in person in another state, you have 60 DAYS to file your Response. [RCW 4.28.180](#) If you were served by publication, you have 60 DAYS from the date of first publication to file your Response. If you were served by mail, you have 90 DAYS from the date the petition was mailed to file your Response. [CR 4\(d\)\(4\)](#).<sup>7</sup>

#### 2. **Responding to motions other than a motion for default.**

If you're served with a Motion for Temporary Orders or an Ex Parte Restraining Order/Order to Show Cause, or notice of the date of the Adequate Cause hearing, you may have much less time to file and serve a response to the motion than you have to file the Response to the petition, sometimes only a few days (or for emergency motions, perhaps even less). For non-emergency motions, the moving party must give you notice as many days before the hearing as is required by your county's local rules. In some counties, you must receive the papers for a motion at least five court days before the hearing, not including weekends or the date that the papers are given to you<sup>8</sup> In other counties or some motions, you must get longer notice. In many counties, the adequate cause hearing can't take place until after your deadline to Respond to the petition. Determine whether you received enough notice.

◆ If the notice for the motion hearing doesn't state your deadline, immediately call the court clerk's office or your family law facilitator, or check your local court rules. In most counties, you must file and serve your response to a motion no later than one court day before the hearing on that motion.<sup>9</sup> In

<sup>7</sup> In general, personal service within the state is required where it's possible. In limited circumstances, service by mail or publication may be allowed. See [CR 4](#), [CR 4.1](#), and [RCW 4.28.100\(5\)](#).

<sup>8</sup> [CR 6\(d\)](#).

<sup>9</sup> [CR 6\(d\)](#).

some counties, however, the response must be filed and served four or more days before the hearing.

- ◆ If you don't file a response in time, the moving party may get an order in which the judge automatically gives that party everything s/he asks for. In addition, even if you file a response, but you don't attend a hearing, the court at that hearing may give the other party what s/he's asked for.

**See the additional information below about deadlines and responding.**

### **3. Responding to a motion for default.**

If you're served with a Motion for Default, you must file and serve your declaration in response to the motion and your Response to the petition before the deadline on this motion, otherwise all the petitioner's requests may be granted. If you're served with a Motion for Default and haven't yet appeared in the case, in addition to preparing a Declaration and a Response, you may also need to get court permission to file and serve your Response.<sup>10</sup>

Also see the below information on dealing with deadlines.

- ◆ If you don't respond on time, the moving party may get an order in which the judge automatically gives that party everything s/he asks for. In addition, even if you file and serve a Response, if you don't attend a hearing, at that hearing the court may give the other party what s/he's asked for.

### **4. Responding to a Notice re: Dependent of a Person in Military Service.**

If you're the dependent of a person in military service as described in this notice, you have 20 days to inform petitioner and the court of your dependent status. See the section of this packet called "If You're in the Military" and contact an attorney for individual legal advice.

## **B. Jurisdiction**

### **1. Does the court in Washington have jurisdiction over me (personal jurisdiction)?**

The court in Washington may be able to decide child custody, even if you've never lived in Washington or had significant contacts with this state. However, if you haven't lived here or had significant contacts with this state, Washington may lack personal jurisdiction to order you to do certain things, such as pay child support.<sup>11</sup> **If you think that Washington may lack**

<sup>10</sup> [See CR 55\(a\)\(2\)](#). This packet doesn't tell you how to request court permission. If you're unable to file a formal motion for court permission before the hearing on the motion for default, at least prepare your Response and declaration, file and serve both, go to court for the default hearing, and ask the judge for permission to participate at the hearing.

<sup>11</sup> A child support obligation may, however, still be established through interstate procedures.

**jurisdiction over you, it's very important to challenge Washington's jurisdiction before you file anything with the court.** For help deciding whether Washington has jurisdiction over you, talk with an attorney.

## **2. Does the court have jurisdiction to decide custody of my child/ren (subject matter jurisdiction)?**

If another state or tribal court has already entered a custody order about your child/ren (for example, in a divorce case), or your child/ren haven't lived in Washington for very long before the petition for nonparental custody is filed, the Washington court may lack jurisdiction to decide custody of your child/ren. Whether Washington has jurisdiction to decide custody (subject matter jurisdiction) is determined by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), [RCW Ch. 26.27](#)

If Washington lacks jurisdiction, then the court here shouldn't decide custody. For more information about the UCCJEA, talk with an attorney. Our publications [Nonparental Custody in Washington: Frequently Asked Questions and Answers](#) and [Which Court Has the Right to Enter a Custody Order?](#) have basic information.

## **3. What should I do if I think the court lacks jurisdiction?**

If you think the court in Washington lacks personal or subject matter jurisdiction, talk to a lawyer. If you're low income, call CLEAR at 1-888-201-1014 or, in King County, call the King County Bar Association Neighborhood Legal Clinics program at (206) 267-7070 between 9:00 a.m. and noon, Monday – Thursday to ask for an appointment with a free family law clinic.

If you think the court lacks personal jurisdiction, don't do anything that could give the court jurisdiction, such as signing agreed orders, requesting something from the court, filing papers that fail to raise your jurisdiction defense, or showing up at a hearing WITHOUT CONTESTING JURISDICTION AT THE BEGINNING OF THE HEARING. If you don't tell the court that you don't think it has personal jurisdiction right at the beginning, you're likely to lose your chance to object.<sup>12</sup> Although you can object to jurisdiction over your children (subject matter jurisdiction) at any time, it's best to do so early in the case.<sup>13</sup>

You may decide to file a motion to dismiss for lack of jurisdiction. Talk with an attorney for more information about motions to dismiss. This packet doesn't have such information.

## **4. What if the child is an Indian Child?**

If a child's a member of an Indian tribe, or if the child's eligible for membership in an Indian tribe and is the child of a member of a tribe, the federal Indian Child Welfare Act (ICWA) applies to the case. The court in Washington may or may not have jurisdiction to decide custody. If it does have jurisdiction, special rules apply. Our publication [Nonparental Custody of a Child: Frequently Asked Questions and Answers](#) has basic information about ICWA. If the child/ren are or may be Indian child/ren, **immediately** tell the court and the petitioner in writing in any papers you file and orally at any hearings.

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<sup>12</sup> [CR 12 \(b\),\(g\),\(h\)](#).

<sup>13</sup> [CR 12\(h\)\(3\)](#).

## 5. What if there's a juvenile court case about the child/ren?

If there's a dependency case in juvenile court concerning the child/ren, superior court may not be able to decide nonparental custody unless the juvenile court grants concurrent jurisdiction to superior court. Or, juvenile court may be able to decide the nonparental custody issues<sup>14</sup>. If you're the parent of a child in a dependency, give your public defender copies of the nonparental custody papers that you received. Tell the court and the other parties in writing and at hearings if there's a dependency case concerning the child/ren. This packet doesn't discuss the handling of nonparental custody cases as part of a juvenile court dependency case.

### C. Decide Whether to File Your Own Motions

You may need or want to file your own motions if, for example:

- you believe the court has no jurisdiction or
- you deny that adequate cause exists or
- the child is an Indian child, or
- you're on active duty in the military or are the protected dependent of a service member on active duty or
- you want emergency or temporary orders, or a custody evaluation/appointment of a GAL(see discussion in Section 3 above).

If you decide to file motions, try to do so before the hearing on motions scheduled by another party. If you do that, you may be able to schedule your motions to be heard on the same day as the other party's.

If you don't know whether you need to file a motion, talk with an attorney. (See also the list of self-help publications in Section 1 for resources on emergency and temporary orders and GALs).

### D. Dealing with Deadlines

◆ If you're in the military service, or if you're the dependent of a military service-member, you may have special legal rights. This packet doesn't describe those rights in detail. The section of this packet called "What If I am in the Military?" contains only some very basic information. If this is your situation, get individual legal advice before filing papers with the court and well before your legal deadline to respond to the legal papers you received.

◆ If you deny that the court has jurisdiction, make sure to contest jurisdiction before you file and serve your court forms. Or, if that's not possible, at least contest jurisdiction at the beginning of your responses.

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<sup>14</sup> See [RCW 13.34.155](#)

## 1. Meet your Deadlines

Review the deadlines you calculated and make sure you file and serve papers before those deadlines. Remember: the deadline for responding to a motion is often shorter than the deadline to file a Response to the Petition. If hearings are coming up in your case, be sure to deliver working papers in advance for the judge, if required in your county. **Check with the court clerk or family law facilitator about the deadlines and the need for working papers. If you miss a deadline, file and serve your papers anyway and go to the hearing. If the other party objects at the hearing, try asking for a continuance of the hearing so that the court will consider your papers.**

## 2. What to Do If You Need More Time

***To Respond to the Petition:*** If you don't have your Response to the Petition prepared, at least file and serve a Notice of Appearance and respond to motions that have been filed. If you file and serve a Notice of Appearance, or if you file and serve motions, or if you appear at hearings, the petitioner should give you notice before asking the court for an order of default against you. File your Response as soon as possible. **If you're served with a Motion for Default, you must file your declaration in response to the motion and your Response to the petition before the deadline on this motion, or all the moving party's requests may be granted. If you're served with a Motion for Default and haven't yet appeared in the case, in addition to preparing a Declaration and a Response, you may also need to get court permission to file your Response.**<sup>15</sup>

***To respond to motions (other than a Motion for Default):*** Make sure you've filed and served a Notice of Appearance. Don't ignore a hearing, even if you were given short notice! If you didn't get legally adequate notice of the hearing on a motion, the court shouldn't enter an order against you on the hearing date. However, the court won't always know that you received short notice, so explain this both in a declaration you file in response to the motion and in person at the hearing. You can ask for a continuance (delay) of the hearing, but you should still be as ready as possible for the hearing in case the court denies your request for a continuance.

If you did get enough notice according to the rules but you simply don't have enough time to respond, you may still try to get a continuance. As soon as you know that you want a continuance, contact every other party if possible (or their attorney, if they have one). You may call if there isn't much time until the hearing, but contacting the person in writing (by email or fax) is best. State that you need more time to respond to the papers and ask for a new date for the hearing. Depending on your reasons for asking for the delay, you could ask for a week or longer.

◆ It's very important to ask for a continuance before the hearing if you know that you need one. If you don't, and you just show up for the hearing and ask there, the judge may order you to pay the other party for having to waste

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<sup>15</sup> See [CR 55\(a\)\(2\)](#). This packet doesn't tell you how to request court permission. If you're unable to file a formal motion for court permission before the hearing on the motion for default, at least prepare your Response and declaration, file and serve both, go to court for the default hearing, and ask the judge for permission to participate at the hearing.

time appearing for the hearing if you could've asked for a continuance in advance. This is especially true if another party has an attorney, because the other party will need to pay the attorney for his/her time whether or not there's a hearing.

If the moving party agrees to the continuance, ask for a letter, fax, or email confirming that they've rescheduled the hearing. If you receive no written confirmation, assume the hearing's still taking place, prepare for it and attend it. In a few counties, the court might need to approve any continuance.

If the other party won't agree to continue the hearing, you have a few options:

1. **Respond as best you can and prepare for the hearing.** Respond in some way if you possibly can. The very first thing to say in your declaration is that you want a continuance. If you didn't get enough notice, say so. If you did, but you need more time, say so and describe your efforts to get an agreement for the continuance. Also file and serve a Notice of Appearance if you haven't already done this.
2. **Make a Motion for Continuance.** In many cases, you may not have enough time to give the other parties the amount of notice required for a motion for continuance. You may need to get an Order Shortening Time (an order allowing you to bring your motion on less than the required time.) This packet doesn't cover this type of motion. However, your family law facilitator may have more information about how to ask for a continuance or an order shortening time in your county court.
3. **Ask for a continuance at the hearing.** Go to the hearing and, when your case is called, stand up and state your name and that you'd like a continuance. The judge may ask for your reasons and may listen to the other party's reasons why s/he objects. If you tried to get the other party to agree before the hearing, let the judge know that.

**The court won't always allow a continuance, so be as ready as you can be to have the hearing on the original date.**

***To respond to a Motion for Default.*** You may try to get a continuance of the hearing date as described above. However, if the hearing isn't continued (postponed), you must:

- a. file and serve your Response to the petition before the deadline to respond to the motion for default and
- b. file and serve your declaration in response to the motion before the deadline to respond to the motion for default, and
- c. if the motion for default was filed before you appeared in the case, you may need to get court permission (called "leave of court") to Respond. This packet doesn't contain any forms for requesting leave of court.
- d. attend the hearing or verify that it has been cancelled.

If you don't do these things, a default judgment may be entered against you. Your declaration should request that the motion be denied, explain that a Response to the Petition is now filed and served, and try to include any explanation for the late filing of your Response.

### **3. What to do if you're already late in filing a Response to the Petition**

If your deadline for filing your Response to the petition has passed, you might still be able to respond to the **petition**. Check with the court clerk's office to see if there's a Motion for Default, an Order of Default or final orders in your court file.

If no order of default has been signed by the judge, file and serve a Notice of Appearance (or file and serve a declaration to tell the court if you think the court has no jurisdiction over you) immediately, and then file and serve your Response as soon as possible.

If you're served with a Motion for Default, or if a Motion for Default's been filed with the court, filing a Notice of Appearance isn't enough. You must file and serve both a Response to the petition and a declaration in response to the motion for default before the deadline to respond to the motion for default, and you must attend the hearing on the motion (or verify that the hearing's been cancelled). Your declaration should request that the motion be denied, explain that a Response to the petition's now filed and served, and include any explanation for the late filing of your Response. In addition, if the motion for default was filed before you appeared in the case, you may need to get court permission (called "leave of court") to Respond. This packet doesn't contain any forms for requesting leave of court.

However, when you check with the clerk's office, if you learn that an order of default or final orders have already been entered against you, you must act very quickly to ask the court to cancel those orders. See our packet called [Filing a Motion to Vacate a Judgment/Order in a Family Law Case](#) and get individual legal advice.

### **4. What to do if the hearing on a motion's already happened.**

If you find out that a hearing on a motion already happened, or that orders have been entered against you, for example on a motion for temporary orders, talk with an attorney as soon as possible. If you can't afford an attorney and live outside of King County, contact CLEAR 1-888-201-1014. If you live in King County, contact the King County Bar Association Neighborhood Legal Clinics program. You may be able to ask the court to vacate (cancel) the orders. However, you must do so very quickly. The longer you wait, the harder it'll be for you to vacate the orders.

Even if you missed the hearing on a motion, you can still file and serve a Response to the Petition unless an Order of Default's been entered against you. (See the additional caution above if a motion for default's been filed but you haven't appeared in the case.)

## Section 6: General Instructions

**These general instructions will apply to all the forms you complete. The instructions cover all types of family law cases, so some of the information may not be used in your particular case.** A Sample form at the end of this section may help you understand these instructions better.

**The caption.** The caption includes the name of your case, the case number, the name of the court, the title of the court paper, and, sometimes, the type of case. It appears at the top of the first page of every form. Write in the name of the county where the case was filed in the blank space where the form reads "Superior Court of Washington County of \_\_\_\_\_." (See the Summons if you're not sure.)

**Case name.** On the left side just below "In Re the Custody of," copy the case name from the Petition.

**Case number.** When the petitioner first files the papers to begin the case and pays the filing fee (or has the fee waived), the court clerk will assign a case number. All parties must write that case number on every paper they file with the court and serve on the other parties during the case. Write the case number near the top on the right hand section of the first page of every form after "No." (abbreviation for "number"). When the petitioner first files the case, s/he may be able to use a special stamp at the court clerk's counter to stamp the case number on each paper. It doesn't matter if the case number's written or stamped. If you're filing a modification/adjustment case in the same court that entered the order you're asking to modify/adjust, use the case number on that order.

**You must write or stamp the case number on the first page of every copy of every paper you file with the court and on the copies you make for other parties. If you don't, your papers may be lost, or they may be returned to you. Some courts will also fine you for filing incorrect forms.**

**Title.** Each form has a title. The title's on the right-hand side of the form under the case number. Sometimes the full title's pre-printed on the form, and sometimes you must add more information to complete it (example: on a declaration, you write in the name of the person completing the declaration).

◆ **Format:** Pleadings (legal forms) that you file with the court and attachments to those pleadings must follow the court rules about size and margins ([GR 14\(a\)](#)). Use regular size (8 ½ x 11") white paper. Write on only one side of the paper. The first page of each paper that you file must have a 3 inch margin (3 inches of space) at the top. The other margins (left, right and bottom, and the top from the second page on) must be at least one-inch wide. Use black or dark blue ink. If your forms don't follow these rules, the court clerk may refuse to file them, or may make you pay a fine.

**The contents.** Fill out each form according to the instructions for that form. In most counties you may print or type the information, but it must be readable and you must use **BLACK OR**

DARK BLUE INK. A few counties require that all documents be typed. After filling out each form, re-read it to be sure you've correctly filled in all the blanks needed. Be sure any corrections are neat and readable. Don't write in the margins of any page, or the clerk may reject your form.

**Dates.** On the last page of most forms (not including orders), there's a space for the person who completes a form to write the date that the form's signed. Dates in orders will be filled in by the judge when s/he signs the order.

### **Signatures.**

- **Your signature**

After you fill out a form, look for the place(s) requiring your signature:

- Some forms have one signature line for "petitioner" or "respondent." After you fill out a form such as the petition, sign at the place that applies to you. Some forms require you to sign in more than one place, so look carefully. Some forms require a date, and the place (city, state) that you signed the form, as well as a signature.
  - When you prepare an order and plan to present it for the judge to sign, look for each place marked "presented by," and sign in the space underneath.
- **Judge's Signature:** Leave the judge's signature line and the date blank.
  - **Other party's signature:** Certain forms you prepare have a place for other parties to sign. You can't force another party to sign a court paper. He/she can choose to sign, or not. However, if you've prepared an order after a hearing, the other party may be willing to sign the form you've prepared if s/he agrees it accurately states the judge's decisions (or the judge may require the other party to sign), even if the party's unhappy with the decision itself.
    - Agreed orders. If the other party agrees with the orders you've written, that party should sign in the appropriate place (petitioner/respondent/moving or nonmoving party) on each court order that's agreed.
    - Approved for entry/Notice of Presentation Waived. If you're the respondent or nonmoving party, or if you didn't prepare the order, you may be asked to sign in a blank under these words. If you check "Approved for entry," this means that you're agreeing that the judge should sign the order as it's written. If "Notice of Presentation Waived" is checked, that means that you're agreeing that the other party can give the order to the judge for him/her to sign without letting you know when the other party's going to take that order to the judge.
  - **Other signatures/Declarant's Signature:** If someone else must sign a form (such as a witness or the person serving papers), be sure they fill out all information correctly and sign in the proper space provided. In a declaration form, the "declarant" is the person who is writing the declaration.

**Place signed.** Declarations and Returns of Service must include the place they are signed and the date (example: Signed this 10th day of October 2005 at Seattle, WA).

**Identifying Information.** Court rules try to protect privacy but also allow for public access to certain information in court files. The three boxes discuss these rules: [GR 15](#), [GR 22](#) and [GR 31](#).

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**Box #1****Things You Shouldn't Write in Most of Your Court Papers:**

General Rules 22 & 31 try to protect privacy in family law cases. Almost all pleadings, orders and other papers filed with the court are available to the public (except for some aspects of parentage cases), and may be available to the public on the internet.

Except where instructions about a specific form tell you otherwise (for example the forms in Box #3), use these rules for papers you file with the court.

**Residence Address (Where you Live) and Telephone Number:** If you don't write these in court papers, do write in an address where you can get mail from the court, and it's a good idea to give the court a phone number where you can be reached.

**Social Security/Driver's License, ID Numbers of Adults and Children:** You're not required to write these in court papers. If you do, write only the last four digits, not the whole number.

**Dates of Birth of Children:** Don't write them in court papers.

**Bank Account, Credit Card Numbers:** Write the bank name, type of account (savings, checking, etc.), and only the last four digits of the account number.

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**Box #2:****Private Information That Should Be Filed With Sealed Cover Sheets:**

If a sealed cover sheet's used, this information's usually available to the other party and the court, but it's not placed in the public file.

**Financial Information:** If you file paystubs, checks, loan applications, tax returns, credit card statements, check registers, W-2 forms, bank statements, or retirement plan orders, attach them to a Sealed Financial Source Documents form to ensure that they won't be available to the public.

**Medical or Mental Health Records or Information:** If you file papers containing health or mental health information (information about past, present, or future physical or mental health of a person, including insurance or payment records), attach the papers to a Sealed Personal Health Care Records form so that they won't be available to the public.

**Confidential Reports:** Reports such as Parenting Evaluations, CPS Reports, Domestic Violence Assessments, and Guardian ad Litem Reports that are intended for court use must have two sections, a public section and a private section. Attach the private section of the report to a Sealed Confidential Reports Cover Sheet.

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**Retirement Plan Orders:** Certain retirement information belongs in the public file, but “Retirement Plan Orders” don’t. Use the Sealed Financial Source Documents Cover Sheet for the Retirement Plan Order. See GR 22 for the definition or see an attorney if this affects your case.

**Other Kinds of Confidential or Embarrassing Information Not Mentioned Above.** If the paper that you want to keep confidential isn’t in the above list, try to file a motion with the court to ask permission to have that paper, or part of a paper, sealed under General Rule (GR) 15. We have no packet that tells you how to do this and there are presently no mandatory forms for this type of motion. Talk to an attorney.

### **Box #3**

#### **When You Should Write Private Information In Court Forms:**

These forms aren’t placed in the public file, and information in them is usually not available to the other party.

You must fill in your personal information completely (including children’s full names, dates of birth, your residence address, social security numbers, etc.): Confidential Information Form, Vital Statistics Form, Domestic Violence Information Form, Foreign Protection Order Form, and Law Enforcement Information Sheet. If you’re afraid to give your address on these forms, consult an attorney, or call CLEAR at 1-888-201-1014.

**SAMPLE FORM**

Fill in the name of the Petitioner here.

**Superior Court of Washington  
County Of Evergreen**

In re the Marriage of:

**JANE DOE,**

and

**JOE DOE,**

Petitioner,

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Opposing party.

Fill in the county where you are filing or where your case was already filed.

This sample case name is for dissolution cases. This information may be different depending upon the type of case.

Your court case number which is assigned by the court when you file your case.

Form title.

**NO. 08-3-99999-9**

**Note for Motion Docket**

**(No Mandatory Form Developed)**

TO THE CLERK OF COURT AND TO: **Joe Doe**  
**99 Railway Lane**  
**Treelane, WA 98000**

Please take notice that this case will be heard on the date below and the clerk is requested to note this issue on the docket for that day.

HEARING DATE: **Monday, October 4, 2008**

HEARING TIME: **10:00 a.m.**

LOCATION: **Treelane Superior Courthouse**

COURTHOUSE ROOM: **2**

ADDRESS: **102 West Broadway**  
**Treelane, WA 98000**

NATURE OF MOTION: **Temporary Orders regarding parenting plan, child support, and restraining orders.**

Date: **9-25-08**

**Jane Doe**  
**Jane Doe, pro se**

## Section 7: Instructions for Filling Out Forms Every Respondent Needs

### A. Response to Nonparental Custody Petition - WPF CU 01.0300

- ◆ If you don't live in Washington, or if you're not sure Washington has jurisdiction over you or the children, talk with an attorney before filing a Response. See the information about jurisdiction in the section called "Deadlines and Some Legal Issues to Consider."
- ◆ If you're in the military, or the protected dependent of a military service-member, talk with an attorney or the JAG office before Responding to the petition and before your deadline to Respond.
- ◆ If you don't file and serve this form before your deadline, the petitioner may ask for an order of default and can request that the court grant all his/her requests without further notice to you.

The Response is your chance to answer what the petitioner says in the nonparental custody petition. It'll tell the court what you agree with and what you disagree with. Look at the petition while filling out the Response form.

**Caption.** Fill out the caption as described in the General Instructions.

#### **Part I**

##### **Admissions and Denials.**

When you complete this part of the Response, read each corresponding paragraph of the Petition for Nonparental Custody. If you agree with the statement in the petition, check the box to the left of the word "*Admitted.*" If you disagree, check the "*Denied*" box. If you don't know, check the "*Lacks Information*" box. Do this for each paragraph of the petition. If you disagree with ANY PART of the information in a paragraph, check the "*Denied*" box in the Response for the whole paragraph.

For any paragraphs you mark "*Denied,*" explain why you're denying it in the space provided at the end of Part 1.1, in the blank space after "*Each allegation of the petition which is denied is denied for the following reasons.*" Write a sentence or two about why you denied each paragraph of the petition for which you marked "denied." Write the number of the paragraph denied (for example, "Paragraph 1.3 is denied because...") and then explain why you denied that paragraph.

Listed below are the paragraphs of the Petition that you're responding to.

- **Paragraph 1.1. Identification of Petitioner(s).** Look at paragraph 1.1 of the Nonparental Custody Petition. If the information about the petitioner's name, birth date, last known residence, and relationship to child/ren is correct for each petitioner, check the "Admitted" box next to 1.1. If anything's incorrect, check the "Denied" box next to 1.1. If you don't know whether it's correct, check the "Lacks Information" box. If you checked "*Denied,*"

follow the instructions in “admissions and denials” paragraph above to write in the reasons you checked the “*Denied*” box.

- **Paragraph 1.2. Identification of Respondent(s).** If the information about each respondent written in the petition in paragraph 1.2 is correct, and if there are no other parents, alleged parents, guardians, custodians, or people with court-ordered time with the child/ren, check the “Admitted” box next to 1.2. If the information’s incorrect, or if a parent, custodian, guardian, or person with court-ordered time has not been named, check the “Denied” box next to 1.2. If you don’t know whether it’s correct, check the “Lacks Information” box next to 1.2. If you checked “*Denied*,” follow the instructions in “admissions and denials” paragraph above to write in the reasons you checked the “*Denied*” box.
- **Paragraph 1.3. Child/ren for Whom Custody is Sought.** If the information in 1.3 of the petition about the child/ren is correct for each child, check the “Admitted” box next to 1.3. If anything’s incorrect, check the “Denied” box next to 1.3. If you don’t know whether it’s correct, check the “Lacks Information” box. If you checked “*Denied*,” follow the instructions in “admissions and denials” paragraph above to write in the reasons you checked the “*Denied*” box.
- **Paragraph 1.4. Identification of All Adults Living in Petitioner’s Household.** If the information about each adult living in Petitioner’s household in paragraph 1.4 of the Petition is correct, and if there are no other adults, check the “Admitted” box next to 1.4. If the information’s incorrect, or if an adult in the Petitioner’s household hasn’t been named, check the “Denied” box next to 1.4. If you don’t know whether it’s correct, check the “Lacks Information” box next to 1.4. If you checked “*Denied*,” follow the instructions in “admissions and denials” paragraph above to write in the reasons you checked the “*Denied*” box.
- **Paragraph 1.5 Indian Child Welfare Act.** If the information checked in the boxes in paragraph 1.5 of the Petition is correct, check the “Admitted” box next to 1.5. If the information checked in the Petition isn’t correct, check the “Denied” box next to 1.5. If you don’t know whether or not it’s correct, check the “Lacks Information” box next to 1.5. If you checked “*Denied*,” follow the instructions in “admissions and denials” paragraph above to write in the reasons you checked the “*Denied*” box.
- **Paragraph 1.6 Jurisdiction.** Paragraph 1.6 of the petition states where petitioner believes each party lives, what contact petitioner says each respondent’s had with the State of Washington, and what bases exist for the Washington court to have personal jurisdiction over each respondent. If all of the boxes checked in paragraph 1.6 of the petition and the information written in the blanks next to those boxes are correct, admit paragraph 1.6. If any of the information in Paragraph 1.6 is incorrect, check the “Denied” box next to 1.6.” If you’re not sure, check the “Lacks Information” box next to 1.6. If you checked “*Denied*,” follow the instructions in the “admissions and denials” paragraph above to write in the reasons you checked the “*Denied*” box.
- **Paragraph 1.7. Jurisdiction over the child.** Paragraph 1.7 of the petition describes why petitioner believes custody can be decided in Washington. Read the paragraph carefully to see if all of the boxes that are checked in the petition are correct. If all the boxes checked and the information written in the blanks next to those boxes are correct, then mark “*Admitted*” next to this paragraph in your Response. If any boxes shouldn’t have been

checked, then mark this paragraph “*Denied*” and explain, following the steps described in the previous paragraphs. If you’re not sure whether the statements are true, mark “*Lacks Information.*”

- **Paragraph 1.8. Uniform Child Custody Jurisdiction and Enforcement Act**

**Information.** Read paragraph 1.8 of the petition carefully because it’s long. If everything’s correct, “*Admit*” the paragraph. However, check the “*Denied*” box if you disagree with ANYTHING in paragraph 1.8 of the petition. Examples: if the petition incorrectly names a child’s parents, deny the paragraph. Or, if the child/ren don’t presently live in the county where the case was filed, deny the paragraph. If you don’t know if a statement is true, check “*Lacks Information.*”

“*During the last five years, the child/ren have lived:*” Make sure all information listed is correct and complete. If not, mark “*denied*” and give your explanation.

“*Claims to custody and visitation:*” Notice which box is checked and read the information in that box. If it’s wrong or incomplete, check “*Denied*” on your Response and, in your explanation, name the people who might have a claim to custody or visitation.

“*Involvement in any other proceedings concerning the child/ren:*” If the petitioner’s never been involved in any other court cases about custody of the child/ren in Washington or any other state or country, it’s okay for him/her to have checked the first box. If there have been ANY legal proceedings about the child/ren that Petitioner’s been involved in that aren’t listed in the Petition, deny paragraph 1.8 and, when explaining your reasons for denying this paragraph, list the legal cases that have been left out. This includes protection orders, juvenile criminal proceedings, dependency actions (CPS), parentage actions, or cases in other states.

“*Other legal proceedings concerning the child/ren:*” If there have been any other court cases about the child/ren that aren’t listed in the petition (including cases that didn’t involve petitioner), check the “*Denied*” box on your response form and then write on your Response the court cases that were left out.

- **Paragraph 1.9 Visitation.** Read petitioner’s statements in paragraph 1.9 of the petition and look at the boxes petitioner checked. **If petitioner refers to or includes a Residential Schedule, read petitioner’s proposed schedule before you admit or deny paragraph 1.9.** Remember to check the “*Denied*” box if you disagree with ANYTHING in paragraph 1.9 of the petition. This paragraph describes what visitation the petitioner believes each parent (and each other Respondent) should have with the child/ren if the petitioner gets custody. It also states why petitioner might think either parent’s visitation time should be restricted or conditions added. If you disagree with petitioner, deny this paragraph and explain. If petitioner’s proposed a Residential Schedule and you disagree with it, deny paragraph 1.9. If petitioner stated you should have reasonable visitation, but didn’t give details in the petition or Residential Schedule, propose your own specific visitation schedule to avoid future disagreements about what’s reasonable. If you want to propose a specific visitation schedule for yourself in case you lose custody (or if you agree to the petitioner having custody but you want to have a certain visitation schedule), write in the schedule you’re asking for. Make it clear whether you agree with petitioner’s request for custody.

Example: if you object to petitioner having custody but want to ask for specific visitation if petitioner does get custody, in addition to checking the appropriate “admitted” or “denied” boxes, write at the end of paragraph 1.1 and in 1.3 of the Response: “Respondent \_\_\_\_\_ (your name) denies that custody should be given to the petitioner. However, if petitioner’s granted custody, then respondent requests the following visitation: (write in your requests, or refer to your proposed Residential Schedule).” Then, in your request for relief (paragraph II), ask the court to dismiss the petition (in 2.1) but to approve your specific visitation request/Residential Schedule if petitioner’s given custody over your objection (in 2.2).

- **Paragraph 1.10 Child Support.** If the petition’s granted, the court usually orders a child support obligation for the parents if it has personal jurisdiction over them. The amount of support set depends upon the parents’ incomes. The child/ren’s needs and income, if any, can also be considered. **If the petitioner’s served you with a set of proposed child support worksheets, they show what amount of child support petitioner believes is correct under the Washington State Child Support Schedule.** Admit Paragraph 1.10 if you agree that child support should be set according to the Schedule. Otherwise, deny the paragraph and explain why if you disagree.
- **Paragraph 1.11 Health Insurance.** This paragraph requests that a parent who doesn’t have custody be ordered to provide health insurance. Admit this paragraph if you agree. Deny it and explain if you disagree.
- **Paragraph 1.12 Continuing Restraining Order.** Read the boxes petitioner’s checked and the information s/he’s filled in. If petitioner checked “doesn’t apply,” then s/he isn’t asking for a restraining order at the end of the case. (S/he may still ask for a temporary one during the case, and s/he may be asking for a domestic violence or unlawful civil harassment Order for Protection even at the end of the case<sup>16</sup>.) If any of the second through eighth boxes are checked, the petitioner’s asked for a restraining order. If you agree, admit the paragraph in your Response. If you disagree with any of the requests, deny the paragraph and explain.
- **Paragraph 1.13 Adequate Cause.** In this paragraph, petitioner must check either or both boxes. Read the checked boxes and the information petitioner wrote in. Admit or deny the paragraph or check that you lack information. If you deny the paragraph, explain your denial. If you admit either of the statements in this paragraph, you agree that petitioner’s shown enough reason for the case to go to trial.
- **Paragraph 1.14 Best Interest of the Child/ren.** Read what petitioner has written about why the child/ren should live with him/her and any other information s/he’s included, and if you disagree with any of the statements, deny the paragraph and explain. If you’re unsure whether the statements are true, check “*lacks information.*”
- **Paragraph 1.15 Other.** If petitioner’s written anything in this paragraph, read it and admit or deny it and explain, or check “*Lacks Information*” if you don’t know whether it’s true.

**“Each allegation of the Petition, which is denied, is denied for the following reasons. ...”**  
In the blank space after this sentence, write a sentence or two about why you denied each paragraph of the petition for which you marked “*Denied*” on your Response. Write the number of the paragraph denied (example: 1.1), and then the reasons you denied it.

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<sup>16</sup> If Petitioner’s asking for an Order for Protection, s/he should’ve checked this box in the Requests for Relief paragraph of the petition. S/he may also have served you with a Petition for an Order for Protection.

- **Paragraph 1.2. Read this paragraph.**
- **Paragraph 1.3. Other.** Write any further response or request you have in this section. For instance, if you believe the court lacks jurisdiction, or if you want specific visitation/ Residential Schedule if petitioner gets custody, or if the child/ren are Indian child/ren, or if you have concerns about the petitioner as a custodian, explain here. If you have other defenses, explain them here.

**Part II – Requests**

- **Paragraph 2.1 Request for Dismissal.** If you think the petition should be denied for any reason (examples: lack of jurisdiction, a parent is suitable, petitioner isn't suitable), check the box, "*the responding party requests that the petition be dismissed.*"

**Paragraph 2.2 Request for Relief if the petition isn't dismissed.** This is where you state what you want the court to do if it doesn't dismiss the petition. If you want the court to take any of the actions listed after the second box, "*the responding party requests...*," check the box at the start of this paragraph, check the appropriate indented boxes, and write in your requests in the blanks after any box you've checked. Example: if you want visitation, check the box "approve my proposed residential schedule... Or order reasonable visitation as follows," and then either write in the visitation you're asking for or attach your proposed residential schedule.

- **Signature.** Date the form, and sign and print your name in the blanks. **Below the signature block,** write the address where you want to get mail from the court and the other parties in this case. If you don't use your home address, use an address where you can **reliably and immediately** get your mail, such as a post office box, or the address of a responsible friend who'll give you mail as soon as it arrives.

◆ If the mailing address you use in the Response or Notice of Appearance later changes, prepare an updated Notice of Appearance. Use the Notice of Appearance form in this packet. Write "Amended" above "Notice of Appearance." State the new address the court and other parties should use. File this notice with the court and provide a copy to the other parties. Use the Certificate of Mailing or Personal Delivery form and procedure to show that notice has been given.

**B. Confidential Information Form and Addendum - WPF DRPSCU 09.0200 and 09.210**

In family law cases, you must give the court information about your address and telephone number, your social security number, date of birth, driver's license, and the name and address of your employer, as well as certain information about the other people involved in the case.<sup>17</sup>

Complete this form, file it with the court clerk, and keep a copy for yourself. **Don't serve the Confidential Information Form and Addendum upon the other parties.**

<sup>17</sup> [RCW 26.23.050\(5\)\(l\) & \(7\); GR 22\(g\) & \(h\).](#)

The Confidential Information Form is normally not available to the other parties or the other parties' attorneys; however, you should know that the form could be provided to DCS (Division of Child Support) and to other divisions of DSHS (Washington State Department of Social and Health Services), and, under some circumstances, they may release information in this form to another party. In addition, another party could get access to the Confidential Information Form if s/he follows certain court procedures.

◆ Update the court by filing a new Confidential Information Form when your address changes, even after your case is finished. If you don't, legal papers may be sent to you at your old address and orders may be entered against you without actual notice to you.<sup>18</sup>

1. Write in the county where the case is filed and the case number. If you have no case number yet, write in the case number when the clerk gives it to you.
2. Check the first box (*divorce/separation...nonparental custody/paternity/modification...*). (If you're updating a form you filed earlier in the same case number, check the box "Information Change.")
3. If restraining orders or protection orders are in place, check the related boxes on the form and show who's protected (and if they go into effect later, file a revised and updated form).
4. If you believe the safety of an adult or child would be in danger by giving out address information, even if you don't have a restraining order or a protection order, check the box "[t]he health, safety, or liberty..." and explain the risk of harm.
5. The law requires a residential address on page 2 of the Confidential Information Form. If you're afraid to give your residential address, try to give an alternate address and see if the court clerk will accept it. If the court clerk won't accept your Confidential Information Form, talk with an attorney, your local domestic violence program, or call CLEAR at 1-888-201-1014.
6. Write in the information requested on the form concerning the petitioner and respondents and the child/ren. Fill in the information about yourself, including your driver's license number and social security number (if you have one). If you're filing this form as part of a nonparental custody case, list the other adults in petitioner's household on page 2 in the place indicated.
7. Fill out the information requested about the adults the child/ren have lived with in the last 5 years (and the current address of each of those adults), and the names and current addresses of people besides petitioners and respondents who have custody or who claim rights to custody or visitation with the children.
8. If there's any information you don't have, explain why you couldn't provide it in the space after "This information is unavailable because..." right above the signature line.

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<sup>18</sup> [RCW 26.23.055\(2\) & \(3\)](#).

9. If there are more than 2 children in your case, or there's more than one petitioner or more than one respondent, write the information about those children or parties in the Addendum. Check the box near the bottom of the second page of the Confidential Information form next to "Addendum to Confidential Information Form Attached."
10. Sign and date the form and write in the place it was signed.

◆ If you're afraid to fill in any of the information requested in this form, talk with an attorney about what to do.

### **C. Pro Se Notice of Appearance WPF DRPSCU 01.0320**

A notice of appearance lets the court and other parties know that you're participating in the legal action. It also provides you some protection if you don't file your Response to the petition by the deadline in the summons. If you file and serve a Notice of Appearance, the petitioner shouldn't be able to get an order of default against you without first giving you notice of the motion for default. If you receive a motion for default, to avoid being defaulted you must file and serve both a declaration in response to the motion and your Response to the petition. See Section 4 above.

**If you're in the military, or the dependent of a military service member, consult an attorney or the JAG office before filing and serving a Notice of Appearance and before your deadline to Respond to the petition.**

**A notice of appearance won't protect you from having orders entered at motions hearings (for example temporary custody or adequate cause).**

- (1) **Caption.** Copy the caption from the summons.
- (2) **Service Address.** Write in your mailing address. If you're afraid to give your address to the other parties, use an address at which you'll **reliably and immediately** learn about mail that arrives for you.

If the mailing address you use on the Notice of Appearance changes, complete a new Notice of Appearance form, write "Amended" over the title, and fill in the new address. File it with the court and send it to the other parties. Complete and file a Certificate of Mailing or Personal Delivery (see the general instructions for the Certificate in Section 8 C).

- (3) **Signature.** Date the form and sign where it says "Signature of Party Appearing," then print or type your name on the line below it.

### **D. Declaration – WPF DRPSCU 01.0100**

#### **1. Information about Declarations**

A declaration is a statement, sworn to be true, by a person who has direct knowledge about the issues in your case. **Declarations are important in family law cases. They give the court detailed information about the issues. In a declaration you or your witnesses can tell the court what's happened, what you've done, and what's been observed that relates to the**

**case. Documents, such as police reports, can also be attached to declarations to prove your case.** It's a good idea to prepare a detailed declaration for yourself and also get declarations from other people who have personal knowledge about you, the child/ren, or petitioner.

Declarations are used at the adequate cause hearing, and most courts also base decisions about temporary or emergency orders on declarations. (However, the judge won't rely on declarations at trial; you have to have witnesses in person there. And a few counties require live testimony at temporary orders hearings.) If a guardian ad litem (GAL) is appointed, s/he'll often use the declarations to understand the issues, to help determine what's in the child/ren's best interests, and to understand whether a child's been harmed or would be harmed by living with a parent.

Generally, you don't need more than one witness to give the same information, especially if the information isn't disputed. If you have several witnesses who would say the same things, choose only one or two to write a declaration. Generally, the court gives more weight to a neutral person or a professional than to someone obviously supporting only one side of the case. The more specific information someone has about you, the child/ren, and/or the other parties, the better witness they will make. Some people such as school teachers or counselors may need a signed release of information form before writing the declaration.

Try to get the following witnesses to complete declarations if they have direct knowledge of at least part of the situation:

- yourself
- close friends or family members
- counselors (including personal mental health counselors of the child/ren, school counselors, domestic violence counselors, anger management counselors, AA sponsors, etc.)
- scout leaders, teachers, coaches, ministers, priests, or other clergy
- doctors or nurses
- CPS workers
- police or other law enforcement officers
- neighbors

**Caution:** by presenting a declaration from a witness, you may be giving up the right to keep confidential other information that witness may have about you or the child/ren.

Remember that at hearings before trial, you and the other parties won't be given much time to speak, and the judge probably won't let you add facts in your case. So try to explain all the important facts on the forms you file with the court.

## **2. Some Brief Rules about Witness Declarations**

- Put the most important points at the beginning. Less important points should come later.
- Base the statement on the writer's own personal knowledge (what s/he saw or experienced firsthand) and not what someone else told the writer. Exception: the writer may talk about

what one of the other parties has said.

- The writer should explain how well s/he knows you or the people s/he's writing about and how often s/he sees the people and in what situations. Example: "Mr. Jones has worked for me at Acme Plumbing for 15 years. I see him almost every day at the office. In addition, because our sons are on competing soccer teams, I have seen him coaching his son's games three or four times this season. I've been invited into his home a two or three times for dinner with his family over the years I've known him."
- The writer must type the declaration or print it neatly in **black or dark blue ink**. (A few courts require that all declarations be typed.) If the declaration's difficult to read, the court may not read it.
- Don't make the declarations too long.
- Stick to the issues the judge will be deciding and be specific on those issues.
  - Example: in a parenting dispute, general statements, such as "she's a bad mother" or "the children are much happier now living with Mary," aren't helpful. Instead, the declaration should describe specific things and state when and where incidents occurred, such as, "I live on the same street as Joe. About a year ago, Joe knocked over our mailbox while driving. I ran out to the street to see what had happened. Joe was standing next to his car. I smelled liquor on his breath. I've seen him weaving down the road in his car three other times this year."
  - In a child support dispute without parenting issues, the statement above may not be relevant to the issues before the court. If it isn't relevant, don't include it.
- Attach extra pages to the declaration if you need more space. However, make sure that the writer of the declaration signs and dates the declaration in the space that says "I declare under penalty of perjury..." Your extra pages should also have margins of at least one inch, and you should number all the pages at the bottom.
- **Some courts (such as King Co.) limit the number of pages that you can file with a motion or response. Check your local rules or ask the court clerk's office or the facilitator.**
- If you attach documents to declarations, such as printouts of bills, school records, medical or treatment records, police records, etc., refer to them in the declaration and call the attached documents exhibits and number them Exhibit Number 1, Exhibit Number 2, etc.
  - If the papers to be attached don't require a sealed cover sheet (see the General Instructions section if you're not sure), staple them to the declaration.
  - If the papers to be attached do have personal medical or mental health information, or financial records, or confidential court reports, write an exhibit number or letter on each paper that will be attached. When the person writing the declaration mentions that paper, they should use that exhibit number or letter & write it is "filed with the Sealed Personal Health Care Records cover sheet on \_\_\_\_\_ (date)." Don't staple the paper to the declaration. Instead, attach the paper to the appropriate Sealed Cover Sheet form before you file and serve it.

The sealed cover sheet forms are described elsewhere in this packet. (Also see the

General Instructions section about the types of papers to keep out of the public file.)

- If the declaration talks about personal medical or mental health information, or financial records, attach the declaration to the appropriate Sealed Cover Sheet form before you file and serve it. The sealed cover sheet forms are described elsewhere in this packet. (Also see the General Instructions section of this packet about the types of papers to keep out of the public file.)

### **3. Filling out the Declaration Form**

#### **Caption.**

Fill out the caption and make as many copies of this form as you'll need before any other information's added. This way, you'll have blank forms with just the caption on them, so that you may give a copy to each witness to fill out and have one for you to use, where necessary.

On the right side of the caption, after the words "declaration of..." write in the witness's name.

#### **This declaration is made by.**

Write in the name, age and the relationship to the parties in the case (example: "Maria Garcia" "29," "petitioner's friend," mother's counselor," "child's daycare provider") in the blanks.

#### **Blank Lines**

On the blank lines, after the words "I declare," the person writing the declaration should type or print neatly in black ink the information that s/he wants to tell the judge. (A few courts require all declarations to be typed.) Follow the suggestions in the paragraphs above.

#### **Signature Line**

Have the witness date and sign at the signature line, and print his/her name and the city and state where s/he signed the declaration. Declarations don't have to be notarized because the witness is swearing the statements are true under the penalty of perjury.

Follow the instructions at the bottom of the form m about using sealed cover sheets.

### **E. Sealed Personal Health Care Records (Cover Sheet) – WPF DRPSCU 09.026**

Unless you learn that a local procedure requires otherwise, use this form whenever you file any papers with the court that mention health care of any kind -- mental health care, physical health care, health insurance, or medical bills -- to make sure the records aren't available to the public. Use this cover sheet on any records or correspondence containing information that relates to the past, present, or future physical or mental health condition of an individual, including past, present or future payments for health care.

Some of the papers that should be filed with this cover sheet are:

- medical and mental health records and bills
- letters or declarations from doctors and counselors

- medical bills & statements of medical coverage (or denial)
- cost estimates for medical care
- social security and L&I and other disability program letters and records
- medical evaluations
- medical insurance records
- dental records
- records of alternative health care practitioners such as massage therapists, acupuncturists or chiropractors
- genetic parentage testing.

Put this cover sheet on declarations that mention medical or mental health conditions.

Keep a blank copy of this form in case you need to file more health care records later.

Attach the confidential personal health care records to this form.

Fill out the caption.

Check the boxes next to each type of paper that you're filing. Usually this will be only the box before "relates to the past, present, or future..."

At the top of the first page of each set of health care records, about one inch from the top of the paper, write "Sealed."

If you're afraid for your safety or the safety of the children, block out information that identifies location and address on the copies that you file with the court and deliver to the other parties.

**F. Sealed Confidential Reports (Cover Sheet) – WPF DRPSCU 09.0270**

This form's used whenever certain confidential reports are filed with the court. These include reports such as the following when intended as reports to the court in a family law case:

- Parenting evaluations
- Domestic Violence Assessment Reports created by certain qualified people
- CPS reports
- See the form for other types of reports

In addition to the private part of the report, the person preparing the report needs to file a public portion that simply lists the materials or information reviewed, the individuals contacted, the tests conducted or reviewed, and the conclusions or recommendations reached.

Instructions for the Sealed Reports form:

1. **Caption.** Fill out the caption.

2. Check the boxes next to the type of report.
3. At the top of the first page of the report, about one inch from the top of the paper, write “Sealed.”
4. Attach the confidential part of the report to this form. If you’re afraid for your safety or the safety of the children, block out information that identifies location and address on the copies that you file with the court and deliver to the other parties.
5. The person submitting the records should sign on the line under “submitted by.”

## **Section 8: Instructions for Forms Some Respondents Will Use**

The following forms, together with guidance about using them, are in the packet [\*Residential Schedules and Child Support in Nonparental Custody Cases.\*](#)

- Residential Schedule
- Child Support Worksheets
- Financial Declaration
- Sealed Financial Source Documents Form

### **A. Order re Adequate Cause WPF CU 02.0400**

You'll need this form when you receive notice of the adequate cause hearing. (You should receive notice of this hearing with the Summons and Petition or later, unless you sign an Agreed Order re Adequate Cause or unless you're in default because you haven't filed a Response to the petition.)

The decision the judge makes at the adequate cause hearing needs to be written into a court order using this form. Often each party prepares a proposed order before the hearing to show the decision they're asking the judge to make (and some courts require them to).

Read petitioner's proposed Order re Adequate Cause. If you disagree with petitioner's proposed order, fill out this form as your own proposed order to show the decision you want the judge to make at the hearing. After you've completed the form, sign it and print your name below your signature. Your proposed order won't have the judge's signature on it yet.

If you deny that there's adequate cause for the petition, deliver your proposed order (plus your declarations and other evidence) to the court (as directed by the clerk), and serve it on the other parties as described in the sections of this packet "The Adequate Cause Hearing" and "Filing and Serving Your Papers." Then when you go to your adequate cause hearing, take your copy of the proposed order plus a blank copy of the Order re Adequate Cause with you.

At the hearing, if your proposed order's the same as the judge's oral decision, cross out the word "proposed" and ask the judge to sign your order. If the judge makes a different decision, then you or petitioner may fill out the blank order form to correctly show the judge's actual decision, ask the other party to approve that it correctly shows the judge's decision, and ask the judge to sign that order.

If the judge signs your order, file it with the court clerk and serve it upon the other parties. Prove service on the other parties by using the Certificate of Mailing or Personal delivery procedure described in the "Filing and Serving Your Papers" section of this packet.

**Fill out the caption.**

#### **I. Basis**

- Read this paragraph.
- Write in the date of the adequate cause hearing.

#### **II. Findings**

- **Paragraph 2.1** Read this paragraph.
- **Paragraph 2.2** Write in the list of documents served on the respondents, the name of each respondent, and the date(s) each respondent was served.
- **Paragraph 2.3** Read this paragraph.
- **Paragraph 2.4** This paragraph shows the court’s decision. If you’re writing a proposed order before the hearing and you want the petition to be denied, check the box, finding that adequate cause “has not been established.”

### III. Order

When you prepare this form as a proposed order, if you believe that adequate cause doesn’t exist, check the first box, ordering that “the Petition is denied and all temporary orders are terminated.” **Also check the “other” box, and add “The Petition is dismissed.”** If the judge rules that adequate cause doesn’t exist, present your proposed order for his/her signature.

If the court finds adequate cause **does** exist and sets a trial date, check the third box and be prepared to go to trial on that date. If the court finds adequate cause but doesn’t set a trial date, check the second box and ask the court clerk or family law facilitator when the final hearing in your case will be scheduled. Some counties assign the trial date and state it in the case schedule you receive when the case is filed.

Go back to the first page of the order and on the top right hand side, under the words “Nonparental Custody,” check the box showing the judge’s decision.

After you’ve prepared the form, sign it under “Presented by.” Below your signature, print or type your name in the place indicated. If other parties (except the Guardian ad Litem) sign the form you’ve prepared, each should use one of the “approved by” blocks. (Add more “approved by” blocks as necessary.) In the “approved by” block, the person signing the form should put their signature on the line indicated and then print or type their name in the place indicated. The Guardian ad Litem should use the “approved by Guardian ad Litem” signature block if s/he signs this form.

If the judge signs the order you proposed, file the original with the court clerk, provide conformed copies to all parties, and keep a conformed copy for yourself.

## Section 9: If You're in the Military or If You're the Dependent of a Military Service Member

If you're on active duty<sup>19</sup> in the United States Armed Forces, or if you're the dependent (usually the spouse or minor child of a resident of Washington who's on active duty and is a National Guard Member or Reservist, or a person receiving over half his/her support from that service member<sup>20</sup>), you have special protections under the Service Members' Civil Relief Acts. Protections under the law can include protection against being defaulted in some circumstances, the right to ask for a stay (delay) of a court case if the active military duty limits ability to participate in the case, and other rights.

**Before you do anything else in this case, contact an attorney or your JAG (Judge Advocate General) right away to get advice about how to protect your rights under the SCRA.** Act quickly: Your time to respond is limited. Example; if you received a Notice re: Dependent of a Person in Military Service, you must respond to it within 20 days. To find your JAG, go to the U.S. Armed Forces Legal Assistance website:

<http://legalassistance.law.af.mil/content/locator.php>. Your JAG will know military law. You should also consult a Washington attorney about your family law issues.

The form called a *Waiver of Rights Under the Service Members Civil Relief Act* can be used to give up the rights under these laws. Instructions are below, if you decide to use this form.

The form called *Notice by Military Dependent* can be used if you qualify under the law as a military dependent to notify the court and the petitioner that you're the dependent. Instructions for this form are also below.

### **A. Waiver of Rights Under Service Member's Civil Relief Acts Form**

This form isn't required. It's optional. If you're concerned that you won't be able to participate in the case because of military duties, or if you're thinking about signing the waiver form, see an attorney or the JAG office. If you sign the waiver form, you're giving up protections under this law.

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<sup>19</sup> The Service Members Civil Relief Act of March 4, 1918, as amended, [50 U.S.C. App., 501 et seq.](#) protects service members including: All members on Federal active duty, including regular members of the Armed Forces (Army, Navy, Air Force, Marine Corps and Coast Guard); Reserve, National Guard and Air National Guard personnel who have been activated and are on Federal active duty (whether as volunteers or as a result of involuntary activation); inductees serving with the armed forces; Public Health Service and National Oceanic and Atmospheric Administration Officers detailed for duty with the armed forces; persons who are training or studying under the supervision of the United States preliminary to induction; and National Guard and Air National Guard personnel on duty for training or other duty authorized by 32 U.S.C. §502(f) at the request of the President, for or in support of an operation during a war or national emergency declared by the President or Congress. *U.S. Coast Guard Legal Assistance Service Members Civil Relief Act Guide* at

[http://www.uscg.mil/legal/la/topics/sscra/sscra\\_guide.htm#coverage](http://www.uscg.mil/legal/la/topics/sscra/sscra_guide.htm#coverage).

For Washington State's Service Members Civil Relief Act, see [RCW 38.42.010](#) et seq.

<sup>20</sup> [RCW 38.42.010](#).

## 1. Instructions for Filling out the Waiver Form, if you choose to sign it.

Caption. Fill in the Caption.

In the first blank, write your full name.

If you decide to sign this form, fill out the rest of the form with the date that you were served with the Summons and Petition, the service member's name, rank, serial number and unit. Sign this form in front of a notary public.

◆ **Finding a Notary:** Often, your local bank has a notary. If you have a bank account there, the bank will sometimes provide the notary service for free. Also look up notary publics in the yellow pages of your telephone book.

## 2. File the Waiver Form

If you sign this form you can then give the form to petitioner to file, or you can file it with the court clerk's office. Keep a conformed copy for yourself and give the other parties a copy.

### B. Notice by Military Dependent

If you haven't yet appeared in the case, and

- you receive a form called Notice re: Dependent of a Person in Military Service, and
- you're a qualified dependent of a military service member (see definition in the Notice re: Dependent of a Person in Military Service) and
- the service member is a member of the National Guard or a military reserve component under a call to active duty service for 30 days in a row or more, and
- you want to inform the court and petitioner/moving party of your status to prevent them from assuming you're not a military dependent, then
- file and serve a Notice by Military Dependent form.

**Notify the court and the other party of your dependent status within 20 days after you receive the Notice re: Dependent of a Person in Military Service.** If you don't, the court may presume you're not a dependent of a person in military service and may enter an order of default against you.

If you're the dependent of a person in the military, talk to an attorney about

- whether you're entitled to the protections of the law concerning military service members' dependents, and,
- if you are protected, whether you should file a Notice of Appearance and a Response to the Petition and other documents in this packet.

You may either use the form in this packet or create your own form or letter to give notice that you're a military dependent.

## 1. Instructions for Filling out the Form

**Caption.** Fill in the Caption.

Check the box that explains how you're a dependent of a service member.

Write in the name of the service member you're the dependent of, and fill in the other information about the service member that's requested by the form.

**Signature.** Date the form and sign where it says "Signature of Party." Then print or type your name on the line below it and show the place signed (e.g. Yakima, Washington).

**Service Address.** Write in your mailing address. If you're afraid to give your address to the other parties, use an address at which you'll **reliably and immediately** learn about mail that arrives for you.

## 2. File and Serve the Form

File your original form with the court clerk's office and keep a conformed copy for your records. Serve the other the other parties with a copy. File and serve notice of your military dependent status **within 20 days** after you receive the Notice re: dependent of a Person in Military Service. Complete and file a Certificate of Mailing or Personal Delivery (see the general instructions for the Certificate of Mailing).

## Section 10: Filing and Serving your Papers

### A. Preparing to File and Serve

After you've filled out forms, follow the steps in this section to file them with the court, serve them on the other parties, and prove that service has been made.

- ❑ **Make sure you know who must be served or is a party to the action.** Usually, the petitioner and other parent are the only other parties. However, if there are other people who are guardians or custodians or who have court ordered time with the child, they should be parties too. The caption should list individual parties by name. In addition, if the child/ren have ever received public assistance (TANF), or Medicaid, or if they're in foster care or out of home placement, or if there's a pending paternity case, you'll need to serve copies on the State of Washington. (For more information, see our packet called [\*Serving Papers on the State\*](#).) If a Guardian ad Litem's been appointed, s/he'll need to be served too.

- ❑ **Figure out how many copies of each form you will need and make the copies.**

The original of each form will be filed with the court clerk in the county where the case has been filed. Make copies as follows: **(except, if you have prepared the Confidential Information Form and addendum and/or Law Enforcement Information Sheet<sup>21</sup> make just make one copy, for yourself, of these 3 forms).**

- \_\_\_\_\_ one copy of each form for yourself
- \_\_\_\_\_ one copy of each form for the other party
- \_\_\_\_\_ if there are additional individual parties one copy of each form for each of these parties (1 x \_\_\_ number of additional parties)
- \_\_\_\_\_ one for the State (if you are serving the State)
- \_\_\_\_\_ one for the GAL if a GAL has been appointed in your case
- \_\_\_\_\_ one copy as working papers if your local court requires you to give the judge "working papers" before a hearing and if you have upcoming hearings.

**\_\_\_\_\_ : total. This is how many copies to make of each document (except just make one copy, for yourself, of the Confidential Information Form and addendum and any Law Enforcement Information Sheet because these forms are not served on any other party).**

- ❑ **Organize Your Papers.** Make a set of the papers for the court and for each party. Put all the original forms into the set for the court. Put the copy of the Confidential

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<sup>21</sup> The Confidential Information Sheet and addendum is in our basic Responding packets. It is filed with your first court papers and needs to be updated when the information in it, such as your address, changes. The Law Enforcement Information sheet is not in all our packets. It is used for restraining orders and Orders for Protection and is available at the court clerk's office.

Information Form and addendum and the Law Enforcement Information Sheet (if you are using these forms) into your own set, since these forms are not served on the other parties. Compare each set to the checklists in this packet to be sure you have what you need.

- ❑ **Put each** of the other parties' sets of papers in an envelope addressed to that party at the legal address they have provided, and add your return address for legal mail. (For your return address, you may use the address on your Response or Notice of Appearance.)

## **B. Filing Your Papers in Court**

1. **Take the originals and the copies to the superior court clerk's office in the courthouse where the case has been filed.** Give the clerk the original copies of your documents for filing. (The clerk should not put the Confidential Information form or any Law Enforcement Information Sheet in the public file.) If you have any proposed orders for upcoming hearings, ask the clerk what to do with the original proposed orders and follow the clerk's instructions.
2. **Ask the clerk to stamp the copies to show the date that you filed the originals.** Take the conformed (stamped) copies back from the clerk. The clerk will keep the originals.
3. **If you need to deliver working papers** for any upcoming hearings<sup>22</sup>, you may want to do that before you leave the courthouse. If you have proposed orders, include them with the working papers.
4. **Make sure that you keep your own set of copies** organized and in a safe place. You may want to start a file folder for all your court papers. You need to keep them at least until your case is finished, but it is better to keep them for several years after the case is completed.

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<sup>22</sup> See the Words You May Need to Know section for a definition of "working papers." Our packets containing information about hearings also have a section on Judge's Working Papers/Confirmation.

## C. Serving the other parties

◆ In addition to filing your papers with the court, you must have them properly served on (delivered to) the other parties, except do not serve the Confidential Information form and addendum and any Law Enforcement Information Sheet.

### **Make sure service is completed before the deadline for your response.**

Service is required because the other parties have the right to know your response to the papers you have received.

The court does not serve the other parties for you. You must arrange for service and make sure your server delivers the papers properly.

After the Summons and Petition have been properly served, most papers prepared by either the petitioner or the respondent can be served on the other party by mail or personal delivery, as explained below.<sup>23</sup> Carefully follow the rules about service.

After service is completed, file proof of service with the court, explained below.

### **Mail or Deliver Your Papers to the Other Parties or Their Attorneys.**

Because you are responding, your papers can be given to the other parties by regular mail or by personal delivery. While the case is going on, if a party has given you an address for service of legal papers (see for example the Summons form, a Notice of Appearance, or a Response), serve him/her at that address. If a party is represented by an attorney, the papers are delivered to the attorney, not the party.

### **Make sure service is completed before your deadline.**

Although many county courts allow you to do your own service, other counties do not. To be safe, **you should not deliver or mail the papers yourself** – ask an adult friend or relative to do it for you.

**When your friend has mailed or delivered the papers to a party, have your friend fill out the Certificate of Mailing or Personal Delivery the same day.** Your friend should fill out a separate form for each person s/he mails or delivers the papers to. You should then file the original certificates and keep a conformed copy for your records.

**Mailing.** If your friend mails the papers, make sure s/he adds three (3) days to the number of days' notice required for your response. When counting, you do not count the day of service (or mailing), weekends, or court holidays. **So, for example, if a document is mailed on a Monday, it is considered served on Thursday.** This is important when setting up or responding to

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<sup>23</sup> [CR 5\(b\)\(1\)-\(2\)](#). However, if you prefer, you may have a party personally served (using the same procedures as described in our Filing packets for serving the Summons and Petition), and have a Return of Service prepared and filed. This packet will tell you if a form needs to be personally served.

hearings because there are deadlines by which papers must be served. If the third day is on a weekend or holiday, the document is not considered to have been served until the next court day.

If a document is sent by regular first class mail, you may also want to have an additional copy sent by certified mail, return receipt requested, so you have additional proof of mailing. If you do this, staple the green return receipt card to the Certificate.

### **Personal Delivery.**

Your friend may deliver the papers to the other party rather than mail them. “Delivering” the papers to another party or his/her attorney means:

- handing it to the attorney or to the party; or
- leaving it at his office with his/her clerk or other person in charge of the office<sup>24</sup>; or,
- if there is no one in charge, leaving it in a place in the office where someone can easily find it (for example, on top of the front desk); or,
- If the office is closed or the person has no office, leaving it at his/her residence or usual place of abode (home) with some person of suitable age and discretion then residing there.<sup>25</sup>

## **D. Instructions for the Certificate of Mailing or Personal Delivery (No Mandatory Form)**

Make some blank copies of this form, since you may need to fill it out and file it several times. Use this form to show that copies of papers you file in court have been given to the other parties. You will need a separate form for each party to whom papers were mailed or delivered.

1. **Caption.** Fill in the caption.
2. **In the first paragraph,** write the date the papers were mailed or delivered in the first blank and the name of the party served in the second blank. (If you are serving an attorney for a party, write in the party’s name here and information about the attorney in the paragraphs below). After “*with the following documents:*” write the name of **every form** sent/delivered to that person. If you leave out a form, you do not have proof it was served. If the papers were served by mail, check the first box and add the name and address of the person the papers were mailed to. If you mailed an additional copy by certified mail, write that in. If the papers were hand delivered, check the second box and fill in the time and address of delivery in the blanks provided, and the name of the person to whom the papers were delivered.

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<sup>24</sup> Although [CR 5\(b\)\(1\)-\(2\)](#) appears to allow a person to be served at his/her office, and you can usually deliver papers to an attorney or GAL at his/her office, we recommend that you DO NOT serve other parties at their offices unless they have used that as their service address in a Notice of Appearance, Petition, or Response form.

<sup>25</sup> [CR 5\(b\)\(1\)](#). A person of suitable age and discretion means someone who is an adult (or at least an older teenager) who does not have a mental impairment that would prevent him/her from understanding that the legal papers should be given to the other party.

3. **Signature.** The person who delivered or mailed the papers should sign and date the form, state the place signed (city and state), and print his/her name in the places indicated.

**E. Filing the Certificates of Mailing or Personal Delivery**

- **Make one copy of each completed Certificate.** You do not need to give copies of this form to the other parties. If you mailed a copy of the forms by certified mail and have a certified mail receipt back from the post office, attach the original receipt to the Certificate of Mailing you file with the clerk (and make a copy for your records). If you used certified mail but do not have the green receipt back when you file the Certificate, you may file the receipt later, attached to a page labeled with your case caption.
- **Take the originals and the copies to the superior court clerk's office** in the courthouse where your case was filed. Give the clerk the originals of the Certificate of Mailing or Personal Delivery forms.
- **Ask the clerk to stamp your copies** to show the date that you filed the Certificates. Take each stamped copy back from the clerk. The clerk will keep the originals.
- **Keep your copies of the Certificates in a safe place.** You may need them.

## Section 11: The Adequate Cause Hearing

Every nonparental custody case must have an adequate cause hearing, unless the respondents have defaulted or all parties have signed and the court has entered an agreed Order re Adequate Cause. At the adequate cause hearing the judge decides whether the nonparental custody case can go forward to trial or whether the petition should be denied before trial. Parents have a strong right to raise their children, so the law requires a nonparent asking for custody to have a strong case. At the adequate cause hearing, the judge will look over the evidence and then sign an order that says whether there's adequate cause (called "Order re Adequate Cause"). Our packet [\*Nonparental Custody of a Child: Frequently Asked Questions and Answers\*](#) explains the legal standard the court will apply.

The petitioner will probably schedule this hearing and serve you with a Notice of Adequate Cause Hearing or similar local form. Petitioner may be able to file and serve the adequate cause hearing notice and supporting documents together with the Summons and Petition, or s/he may need to serve them later. Usually the hearing takes place after the deadline to respond to the petition has passed. A few counties may allow it earlier. Some counties require the adequate cause order to be entered within a certain number of days after the case has been filed, or may require that the adequate cause hearing be scheduled when the case is filed, or may set the hearing date in the Case Schedule. **If you've failed to file a Response to the petition before your deadline, the petitioner may be able to ask the judge to sign an Order re Adequate Cause without notice to you.**

The petitioner may ask you to sign an agreed Order re Adequate Cause. You're not required to agree. You can insist on having the judge decide whether or not petitioner has adequate cause. However, if all parties do sign an agreed Order re Adequate Cause, the petitioner should present the agreed order to the judge for signature and give you a copy of the signed order.

If you've received a notice of adequate cause hearing or other local form setting this hearing, and if you deny that adequate cause for the petition exists, you must prepare for and attend the hearing. Prepare by gathering evidence in the form of declarations from yourself and other witnesses showing you're a suitable parent and it wouldn't be detrimental (harmful) for the child/ren to live with you. You and your witnesses may attach appropriate documents to the declarations. You may also raise concerns in the declarations about the ability of the petitioner(s) to care for the child/ren. File and serve the declarations before the deadline to respond to the Notice of Adequate Cause Hearing in your county. Follow the procedures in the section above to file and serve your declarations, and complete and file Certificates of Mailing or Personal Delivery to show that all parties have been served with your documents.

Make sure you ask an attorney, the court clerk, or the family law facilitator about local requirements and procedures for adequate cause decisions in your case. The following general description may not exactly describe the practice in your county.

Before the adequate cause hearing in **contested cases**,

- Understand and follow local procedures about
  - when the adequate cause hearing may be scheduled,
  - how many days of advance notice to give the other parties,

- whether live testimony's available or required (and if available, how to request it if you want it),
  - whether you'll need to serve a proposed Order re Adequate Cause with the declarations,
  - your deadline for filing and serving responding declarations, and
  - whether there's a limit on the number or length of declarations.
- Complete the following documents
    - Your own declaration,
    - Declarations from any other witnesses showing that the petitioner doesn't meet the necessary legal standard for a nonparent to obtain custody or that the petitioner's not a suitable custodian, and
    - A proposed Order re Adequate Cause. Some counties require you to give your proposed order to the court at the time you file your declarations and serve it on the other parties. Even where this isn't a local requirement, prepare a proposed Order re Adequate Cause anyway, give it to the court at or before the hearing, and serve it on the parties with your declarations.
  - Make copies of the declarations, proposed order, and any other document you plan to use at the hearing.
  - File the original declarations and any other documents you intend to use at the adequate cause hearing with the clerk, and ask for "conformed" copies. Ask the clerk what to do with the original proposed Order re Adequate Cause and follow his/her instructions. (See the explanation in the section of this packet "Filing and Serving Your Papers" for how to file and serve the papers.)
  - Ask the clerk how to deliver the working papers, if required in your county, and follow those instructions. Working papers are an extra set of your papers for the judge to read. If working papers are required and you don't deliver them, the judge might not consider the papers you've filed.
  - Have every other party served with the declarations, your proposed order, and other papers you filed with the court.
  - Make sure you serve the declarations and other papers within the deadlines in your particular county. (Add at least three court days if you're mailing the notice.)  
CHECK YOUR LOCAL RULES.
  - Have the person who delivered or mailed the papers fill out a Certificate of Mailing or Personal Delivery for each person served. Once these certificates are complete, file the originals with the court clerk and keep a conformed copy for your records. Take the copy of the Certificate(s) with you to the hearing in case the judge wants to see it.
  - Confirm your hearing if necessary under local procedures (usually the person who scheduled the hearing is responsible to confirm it).
  - Read any documents you receive in reply.

## **A. Going to the Adequate Cause Hearing**

At the Adequate Cause hearing, the judge decides whether or not there's enough evidence to let the case proceed.

**If another Party Gets an Attorney.** If at any time before the hearing another party's attorney contacts you, or if an attorney shows up at a hearing, you might try to get an attorney yourself. Tell the attorney and the court that you need to delay (continue) your hearing. Don't sign any documents you don't understand. You may need written court approval for a delay in some counties.

If you ask the other parties to postpone the hearing, but they disagree, ask the court for a continuance at the beginning of your hearing. However, be as ready for the hearing as possible on the scheduled day anyway, in case the court denies a postponement.

**Prepare for the Hearing.** Try to go to court before the day of your hearing and watch how the hearings are generally done. Try also to make some notes to yourself about the main points that you want to make when you have a chance to talk during the hearing.

**Take your papers to the hearing.** Your papers should include the Adequate Cause papers you've received and filed so far, the Certificates of Mailing or Personal Delivery, any green "return receipt" card showing service by certified mail, your Proposed Order, and blank copies of the Order forms in case you need to make major changes to your proposed orders.

**Get to Your Hearing Early.** Dress neatly. Bring a pad of paper and black pen to write notes with. Don't bring children if you can help it – the judge will usually not let them sit in the courtroom. If you're late, the hearing will be cancelled (or the other party may win).

**When You Get to the Courtroom.** Tell the person in charge in the courtroom (the clerk or the bailiff) your name and the name and number of your case. Take a seat. When the judge walks in the room, stand up. When your case name is called, tell the court that you're present. Remain in court until your case is called for hearing.

When you're told to come forward, do so and give the court the original of your proposed Order re Adequate Cause. If you've scheduled other hearings in your case for the same time, give the judge all the proposed Orders you've prepared (for example Temporary Order).

**Presenting Your Case.** If the other parties show up at the hearing, each of you will have a chance to tell your side of the case. Stand while speaking. Tell the judge briefly what you want and why. (If you've filed your own motion for the same day, tell the court.) Try to keep your argument short and only outline your main points – some courts give you only 5 minutes to talk. In most cases, the judge will have read your papers before the hearing so don't repeat everything in your papers. You usually won't be allowed to add new evidence. In a few counties the court may expect the parties to testify about their requests. During the hearing, address the judge, not the other party.

**If the other party doesn't appear,** show the judge your Certificates of Mailing or Personal Delivery form and any "return receipt" showing certified mail. Ask the judge to sign your proposed Order re Adequate Cause (and your other Orders if you've scheduled other motions for the same time). Tell the clerk or bailiff you need a copy of the order.

**DON'T INTERRUPT THE JUDGE.**

**Hearing the Judge’s Decision.** After the judge has heard all sides, s/he’ll decide if there’s adequate cause to go forward with the case. Listen carefully and make notes. The judge may make changes to the order you prepared, or s/he may direct you, the other party, or the other party’s attorney to do it. If another party makes changes to the order, read it carefully and make sure that it says what the judge said. If you’re not sure about any of the changes, don’t sign the orders but ask the party to go back before the judge to make sure that the order shows the judge’s decision.

Ask the judge to sign the Order re Adequate Cause. If you’ve scheduled Motions in your case for the same day, such as a Motion for Temporary Orders, remember to ask the judge to sign orders showing his/her decision on those motions.

**A judge’s oral decision at the adequate cause hearing needs to be put into a written order.**

**Usually you want to have your court orders signed the day of your hearing. Some counties require they be signed before the parties leave the courthouse.**

**Getting Copies of the Orders and Filing Them.** Make sure you get a copy of the orders as signed by the judge. Ask the clerk how to do this. The clerk may give you the originals and tell you to go make copies in the library or at the clerk’s office. **DON’T LEAVE THE COURTHOUSE WITH (OR CHANGE OR DESTROY) COURT ORDERS THAT HAVE BEEN SIGNED BY THE JUDGE.** After you’ve made copies, take the originals to the court clerk’s office and file them with the clerk.

If the judge signs the order you prepared, deliver a copy of the order as signed by the judge to every other party. Use the Certificate of Mailing or Personal Delivery procedure to do this and to prove that service has been made. Keep a copy of the order for yourself.

## **B. What if I disagree with the court’s decision on adequate cause?**

If you disagree with the court’s decision on adequate cause, you may have a chance to appeal. There are three possibilities, listed below. Try to talk with an attorney before deciding what to do.

- **Motion for Reconsideration.** If a court commissioner or judge decided on the motion, and you believe that there’s new evidence or another legal reason that could change the commissioner or judge’s mind, you may file a Motion for Reconsideration. See [CR 59\(a\)](#). You have 10 days from the date the court signed the order to file a Motion for Reconsideration.<sup>26</sup> Local court rules may require you to also serve the other parties within the same deadline – if you plan to serve by mail, you must mail your motion at least 3 days earlier. Motions for Reconsideration aren’t usually easy to win. Consult with an attorney, if possible, before filing one.
- **Motion for Revision.** If a court commissioner decided the motion, and you don’t want to try to give the commissioner more evidence, you may file a Motion for Revision. A motion for revision is heard by a judge, and that judge can hold a “new hearing” on the evidence that the commissioner considered. You have 10 days from the date the court

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<sup>26</sup> [CR 59\(b\)](#).

commissioner signed the order to file a Motion for Revision.<sup>27</sup> Local court rules may require you to also serve the other parties within the same deadline – if you plan to serve by mail, you must mail your motion at least 3 days earlier. Motions for Revision aren't usually easy to win. Consult with an attorney, if possible, before filing one.

- If you choose not to file either of the above motions or if you lose these motions, then your only remedy is to file an appeal with the Court of Appeals (or, in some cases, a request for discretionary review) and properly notify the other parties. Generally, you have 30 days from the date the court signed the order to do this.<sup>28</sup> However, there are other requirements for filing in the Court of Appeals, not all decisions can be appealed, and few cases are successful. Definitely talk with an attorney before filing an appeal/request for discretionary review.

◆ We don't yet have packets on how to file a Motion for Reconsideration, a Motion for Revision, or a Notice of Appeal. Check with your local court clerk or family law facilitator to see if they have a packet.

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<sup>27</sup> [RCW 2.24.050](#).

<sup>28</sup> Rules of Appellate Procedure [\(RAP\) 5.2\(a\)](#).

## Section 12: Settling the Case by Agreement

You may try to settle the case by agreement. You may negotiate even before you file your Response, but DON'T ignore your legal deadlines to respond to the petition or motions. You can try to reach agreement by direct negotiation, at a settlement conference with the court, or through mediation. See the publication called [Mediation](#) for further information.

If all the parties agree (or petitioner obtains orders of default against those who have not agreed), then final papers showing the agreement may be prepared and presented to the court. The packet [Finishing Your Nonparental Custody Case](#) describes the process, primarily from the petitioner's point of view, and contains court forms. If the parties agree that petitioner will have nonparental custody, usually it's best for petitioner(s) to arrange a time to present the papers to the court, and all parties should attend to confirm that all agree.

If the parties have agreed that petitioner's voluntarily dismissing (dropping) the case without an award of custody, also see the packet [Finishing Your Nonparental Custody Case](#).

If some parties agree that petitioner's to receive permanent legal custody, but others contest, the case isn't ready to be finished.<sup>29</sup> Final papers that give the petitioner permanent legal custody can't usually be presented to the judge to approve until the case can be resolved as to ALL the parties (by agreement with each, default, or trial). If you've reached agreement with petitioner but other parties haven't, get legal advice about whether and how to record the agreement you reached while the case with the other parties goes ahead.

The final papers can range from an order dismissing (stopping) the case, to a nonparental custody decree that specifically states when and how the child/ren will return to a parent, to a nonparental custody decree with extensive, defined visitation for the parent(s), to a nonparent custody decree that denies the parents all contact with the child/ren.

If you're confident that the final papers show your agreement accurately, sign them. **Try to make an appointment with a lawyer OTHER THAN PETITIONER'S LAWYER to review the papers before you sign.**

If you go to court to confirm the agreement, the judge may ask you about the agreement. If the final agreement is for the child/ren to live with a nonparent, then the court will have to review the judicial system, law enforcement, and CPS background checks about petitioner and adults in his/her household before signing the custody order. Agreed cases can usually be resolved with a brief hearing rather than after a trial. If the judge accepts the agreement, s/he'll sign the final papers. **Exception: If the judge finds that the proposed final papers set up a custody arrangement that's not in the best interests of the child/ren, or if the background checks of petitioner or members of petitioner's household reveal problems, the judge may ask further questions and may delay or deny approval of the papers, even if the parties have agreed to them.** If s/he's very concerned, the judge might make a CPS referral for investigation.

**Make sure you receive conformed copies of the final orders.**

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<sup>29</sup> On the other hand, if the case is being dismissed, respondent's agreement isn't usually necessary unless s/he has filed a counterclaim. [CR 41](#).

## **A. Joinder of Respondent - WPF DRPSCU 01.0330.**

If you agree with everything in the Petition for Nonparental Custody and in any related papers such as the residential schedule and child support worksheets, you may want to complete the Joinder form included in this packet.

- ◆ **You are never required to sign a joinder form.**
- ◆ If you disagree with any requests in the petition or any related paper, or if you agree with all the requests but want to be sure the court does not approve final agreed papers until you sign them, **do not** sign the joinder form.
- ◆ If you sign the joinder form, you are giving the other party permission to enter final papers without your further approval or your signature on the papers.

In most cases, we recommend that, even if you agree to everything requested, instead of signing the joinder form, you ask to see and read the proposed final papers before the other party takes them to the judge. (The final papers may include, for example, depending upon the type of case, Decree, Order on Modification, Parenting Plan or Residential Schedule, Order of Child Support, etc.). If the proposed final papers correctly show your agreement, you may sign those final papers. That way you can reduce the chance of misunderstanding and be more confident the final papers accurately show your agreement.

However, if you agree with everything the other party asked for in the petition and in every related paper, and do not feel it is necessary for you to sign the final orders before they are presented to the judge, you may decide to complete the Joinder form included in this packet. Signing the form can make it easier and quicker to finish the case, but signing the form has risks. You should talk with an attorney (NOT THE OTHER PARTY'S ATTORNEY) before signing a Joinder to make sure that you fully understand what legal rights you are giving up.

### **1. Instructions for the Joinder Form, (WPF DRPSCU 01.0330) if you Decide to Use It**

The signed joinder form gives the other party permission to enter final papers without your further approval or your signature on the final papers and tells the judge you agree that final orders can be entered as requested in the petition and related papers. **Read the information above before deciding to sign this form.**

1. **Caption.** Fill out the caption.
2. **Paragraph 1.** Read the paragraph carefully.
3. **Paragraph 2.** We recommend that you check the second box so that the other party must send you the notice of hearings to finish your case. Even if you check this box, it does not mean the petitioner/requesting party must get your signature on the final papers. It only means you are asking him/her to send you notice. Write your address in the blank space. If you do not want to give your home address, you do not need to do so, but make sure you use a reliable mailing address where you will immediately learn of papers arriving

for you. If you are sure that you do not want the other party to give you notice before final orders are entered, check the first box.

4. **Other.** You may write in other information here.
5. **Signature.** You should date the form and sign where it says “Signature of Joining Party” and then print or type your name on the line below it.

**How to file the Joinder Form, if you chose to sign it.**

If you signed the joinder form, you may follow the same steps to file and serve it as described for filing your Response and other forms. Mail or deliver a copy of the Joinder form to the other parties and keep a copy for yourself.

## Section 13: If You and Another Party Disagree, Get Ready to Go to Trial

If

- you file a Response contesting the petition and
- the judge signs an order finding adequate cause (either by agreement or after a hearing), and
- the court doesn't dismiss the case for another reason, and
- you don't reach an agreement about final orders, then
- both the Petitioner(s) and Respondent(s) must prepare to go to trial.

It's very important to follow the court's rules about trial preparation. In some counties, you have a case schedule or other notice that tells you about some of the things to do to prepare for trial. Talk with your family law facilitator for more information about those deadlines. If you don't have a case schedule, don't wait until the last minute to get ready for trial. Make sure that you start weeks, if not months, in advance. Find out about how your trial is scheduled. Sometimes a case schedule or the court announces the trial date, and sometimes the parties must ask for a trial date.

If there's a Guardian ad Litem or other custody evaluator in your case, you should receive a report from him/her before the trial.

If you have a trial, each party will have the chance to tell the judge why the judge should rule in that party's favor. Each party will be required to present the judge with evidence (examples: admissible documents or testimony) that helps prove that party's claims.

This packet doesn't include detailed information about how to prepare for trial. However, some other publications may help you prepare for trial. See, for example, our publications called [How to Subpoena Witnesses and Documents](#) and [Basic Tips on How to Prepare for a Court Hearing or Trial](#). Try to consult an attorney for specific advice about what to do to prepare for trial.

At the end of your trial, the judge will announce his/her decision and give reasons for it.

**However, the case isn't finished until the judge signs final papers.**

- If the judge decides at trial that petitioner will have custody, the final papers s/he needs after trial are listed in the packet [Finishing Your Nonparental Custody Case](#).
- If, however, the judge decides that the petitioner isn't entitled to permanent legal custody, the judge may order the case dismissed. The packet [Finishing Your Nonparental Custody Case](#) contains a dismissal form respondent may use. However, Findings of Fact and Conclusions of Law for respondent to use if s/he wins at trial aren't in that packet. We strongly recommend that if you win at trial, get individual legal assistance in preparing Findings of Fact and Conclusions of Law and other final papers accurately showing the judge's decision. To help you in doing this, there may be a written opinion from the judge that can be used to prepare the final papers, or you may be able to get a copy of the

tape or record of the judge's oral decision from the clerk or court reporter present during the trial.

The judge will usually ask one of the parties or his/her attorney to prepare the final papers for the judge to approve.

Those papers will be presented to the judge at a "presentation" hearing. Sometimes the judge at the end of the trial will tell the parties the date of the presentation hearing. If the judge doesn't set a date, then the person who prepares the final papers must give the other parties advance notice of the time and place of this hearing and of the papers s/he wants the judge to sign. That person's supposed to prepare the final papers to say exactly what the judge ordered – not what that party wanted. Any party who doesn't think the proposed final papers say what the judge ordered can come to the hearing and explain the objection, or propose different final papers that s/he believes more accurately show the judge's decision.

The packet [\*Finishing Your Nonparental Custody Case\*](#) describes the steps for presenting final papers after trial.

◆ If another party's prepared final papers after trial and asks you to sign them, read each paper carefully to see if it accurately states what the judge decided at your trial. If you believe any paper doesn't show the judge's decision correctly, or if you're unsure, **you have the right to insist that the other party set a "presentation" hearing** and give you notice of that hearing. Attend the presentation hearing and explain why you believe the language in the final papers doesn't show the judge's decision.

## Section 14: Blank Forms

The rest of this packet contains blank forms for you to complete. Make a copy of each form so that you have an extra in case your first draft needs lots of changes. You may need forms from other packets, and you may not need all the forms in this packet.

◆ If you deny that the court has jurisdiction, make sure to contest jurisdiction before you file and serve your court forms, or if that isn't possible, at least contest jurisdiction at the beginning of your responses.

◆ If you're in the military or are the protected dependent of a military service member, get individual legal advice about whether to use the forms in this packet. Filing and serving some of the forms may give up your rights under the laws created to protect military service personnel and dependents in civil cases.

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_  
Child(ren),

\_\_\_\_\_  
Petitioner(s),

and

\_\_\_\_\_  
Respondent(s).

No. \_\_\_\_\_

**Response to Nonparental  
Custody Petition  
(RSP)**

***To the Above-Named Petitioner:***

**I. Response**

**1.1 Admissions and Denials**

The allegations of the petition in this matter are ***admitted*** or ***denied*** as follows (check only one for each paragraph):

Paragraph of the Petition

1.1	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.2	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.3	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.4	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.5	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.6	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.7	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.8	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.9	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.10	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information

1.11	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.12	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.13	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.14	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.15	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information

Each allegation of the petition which is denied, is denied for the following reasons [List separately]:

## 1.2 Notice of Further Proceedings

Notice of all further proceedings in this matter should be sent to the address shown on the last page of this form.

## 1.3 Other

## II. Requests

### 2.1 Request for Dismissal

- Does not apply.
- The responding party requests that the petition be dismissed.

**2.2 Request for Relief if the Petition Is not Dismissed**

- The responding party requests the court to grant the relief below.
  - Award custody of the child(ren) as follows:
    - Order either or both parents to maintain or provide health insurance coverage for the child(ren) consistent with RCW 26.10.060.
    - Determine support for the dependent child(ren) pursuant to the Washington State Child Support Schedule.
    - Approve my proposed residential schedule for the dependant children, which schedule is attached and incorporated into this response, or order reasonable visitation as follows:
  - Award the tax exemptions for the dependent child(ren) as follows:
  - Enter a  domestic violence  antiharassment Order for Protection protecting (name) \_\_\_\_\_ from (name) \_\_\_\_\_ .  
If you check this box, contact the clerk/court for RCW 26.50 Domestic Violence forms or for RCW 10.14 Antiharassment forms.
  - Enter a continuing restraining order.
  - Order payment of day care expenses for the child(ren).
  - Order payment of attorney’s fees, other professional fees and costs.
  - Other:

Dated: \_\_\_\_\_

Notice to party: you may list an address that is not your residential address where you agree to accept legal documents. Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPCU 09.0200) with the court clerk.

\_\_\_\_\_  
Signature of Respondent or Lawyer/WSBA No.

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Address

## Confidential Information Form (INFO)

County:	Cause Number:	<b>Do not file in a public access file.</b>
<b>Court Clerk: This is a Restricted Access Document</b>		

Divorce/Separation/Invalidity/Nonparental Custody/Paternity/Modifications  
 Sexual Assault  
 Other  
 Domestic Violence  
 Antiharassment  
 Information Change (Check if you are updating information)

A restraining order or protection order is in effect protecting  the petitioner  the respondent  the children.

The health, safety, or liberty of a party or child would be jeopardized by disclosure of address information because: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**The following information about the parties is required in all cases:  
(Use the Addendum To Confidential Information Form to list additional parties or children)**

Petitioner Information	Type or Print Only	Respondent Information
Name (Last, First, Middle)		
Race	Sex	Birthdate
Driver's Lic. or Identocard (# and State)		
Mailing Address (P.O. Box/Street, City, State, Zip)		
Relationship to Child(ren)		

**The following information is required if there are children involved in the proceeding.** (Soc. Sec. No. is not required for petitions in protection order cases (Domestic Violence/Antiharassment/Sexual Assault).)

1) Child's Name (Last, First, Middle)

Child's Race/Sex/Birthdate

Child's Soc. Sec. No. (If required)

Child's Present Address or Whereabouts

2) Child's Name (Last, First, Middle)
Child's Race/Sex/Birthdate
Child's Soc. Sec. No. (If required)
Child's Present Address or Whereabouts
List the names and present addresses of the persons with whom the child(ren) lived during the last five years:
List the names and present addresses of any person besides you and the respondent who has physical custody of, or claims rights of custody or visitation with, the child(ren):

<b>Except for petitions in protection order cases (Domestic Violence/Antiharassment/ Sexual Assault), the following information is required:</b>	
<b>Petitioner's Information</b>	<b>Respondent's Information</b>
Soc. Sec. No.:	Soc. Sec. No.:
Residential Address (Street, City, State, Zip)	Residential Address (Street, City, State, Zip)
Telephone No.: (    )	Telephone No.: (    )
Employer:	Employer:
Empl. Address:	Empl. Address:
Empl. Phone No.: (    )	Empl. Phone No.: (    )
<b>For Nonparental Custody Petitions only, list other Adults in Petitioner(s) household (Name/DOB):</b>	

Additional information: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Addendum(s) To Confidential Information Form attached. List other parties or children in Addendum(s).

I certify under penalty of perjury under the laws of the state of Washington that the above information is true and accurate concerning myself and is accurate to the best of my knowledge as to the other party, or is unavailable. The information is unavailable because \_\_\_\_\_  
 \_\_\_\_\_.

Signed on \_\_\_\_\_ (Date) at \_\_\_\_\_ (City and State).

\_\_\_\_\_  
 Petitioner/Respondent

## Addendum to Confidential Information Form (AD)

County:	Cause Number:	<b>Do not file in a public access file.</b>
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**Court Clerk: This is a Restricted Access Document**

**The following information about additional parties is required in all cases.**

Additional Petitioner Information	Type or Print Only	Additional Respondent Information
Name (Last, First, Middle)		
Name (Last, first, Middle)		
Race	Sex	Birthdate
Race	Sex	Birthdate
Drivers Lic. or Identicard (# and State)		Drivers Lic. or Identicard (# and State), (or, if unavailable, residential address)
Mailing Address (P.O. Box/Street, City, State, Zip)		Mailing Address (P.O. Box/Street, City, State, Zip)
Relationship to Child(ren)		Relationship to Child(ren)

**The following information is required if there are additional children involved in the proceeding.** (Soc. Sec. No. is not required for petitions in protection order cases (Domestic Violence/Antiharassment/Sexual Assault).)

3) Child's Name (Last, First, Middle)

Child's Race/Sex/Birthdate

Child's Soc. Sec. No. (If required)

Child's Present Address or Whereabouts

4) Child's Name (Last, First, Middle)

Child's Race/Sex/Birthdate

Child's Soc. Sec. No. (If required)

Child's Present Address or Whereabouts

**Except for petitions in protection order cases (Domestic Violence/Antiharassment/Sexual Assault), the following information is required:**

Additional Petitioner Information	Additional Respondent Information
Soc. Sec. No.:	Soc. Sec. No.:
Residential Address (Street, City, State, Zip)	Residential Address (Street, City, State, Zip)
Telephone No.: (    )	Telephone No.: (    )
Employer:	Employer:
Empl. Address:	Empl. Address:
Empl. Phone No.: (    )	Empl. Phone No.: (    )

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_  
Child(ren),

\_\_\_\_\_  
Petitioner(s),

and

\_\_\_\_\_  
Respondent(s).

No. \_\_\_\_\_

**Pro se Notice of Appearance  
(APPS)**

The undersigned enters an appearance in this action, and demands notice of all further proceedings. The Clerk of the Court and the opposing party will be informed of any change in address. Any notices may be sent to [You may list an address that is not your residential address where you agree to accept legal documents.]

Service Address:

\_\_\_\_\_  
\_\_\_\_\_

Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPSCU 09.0200) with the court clerk.

Phone Number: Listed on Confidential Information Form.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Party Appearing

\_\_\_\_\_  
Print or Type Name

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_

Child(ren),

\_\_\_\_\_

Petitioner(s),

and

\_\_\_\_\_

Respondent(s).

No. \_\_\_\_\_

**Certificate of Mailing or  
Personal Delivery**

**(No Mandatory Form Developed)**

I hereby certify that I am over the age of 18 and competent to be a witness.

On \_\_\_\_\_, I served \_\_\_\_\_, with the following documents: \_\_\_\_\_

\_\_\_\_\_ in the following  
manner

Via first class U.S. Mail, postage prepaid; to  
(Name & Address of Party Being Served):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Hand Delivery

At the following address:

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by handing to and leaving with \_\_\_\_\_ (name) a true and correct copy of said pleadings at \_\_\_\_ a.m./p.m.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at  
\_\_\_\_\_(city), \_\_\_\_\_(state).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name





**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_  
Child(ren),

\_\_\_\_\_  
Petitioner(s),

and

\_\_\_\_\_  
Respondent(s).

No. \_\_\_\_\_

**Sealed Personal Health Care  
Records  
(Cover Sheet)  
(SEALPHC)  
Clerk's Action Required**

---

**Sealed Personal Health Care Records**

(List documents below and write "Sealed" at least one inch from the top of the first page of each document.)

Records or correspondences that contain health information that:

- Relates to the past, present, or future physical or mental health condition of an individual including past, present, or future payments for health care.
- Involves genetic parentage testing.

Submitted by:

\_\_\_\_\_

**Notice:** The other party will have access to these health care records. If you are concerned for your safety or the safety of the children, you may redact (block out or delete) information that identifies your location.

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_  
Child(ren),

\_\_\_\_\_  
Petitioner(s),

and

\_\_\_\_\_  
Respondent(s).

No. \_\_\_\_\_

**Sealed Confidential Reports  
(Cover Sheet)  
(SEALRPT)  
Clerk's Action Required**

---

**Sealed Confidential Reports**

(List documents below and write "Sealed" at least one inch from the top of the first page of each document.)

This cover sheet shall be used to file the sealed portion of the following reports:

- Parenting evaluations
- Domestic Violence Assessment Reports created by Family Court Services or a qualified expert appointed by the court
- Risk Assessment Reports created by Family Court Services or a qualified expert
- CPS Summary Reports created by Family Court Services or supplied directly by Children's Protective Services
- Sexual abuse evaluations
- Reports of a guardian ad litem or Court Appointed Special Advocate
- Other:

The sealed portion of these reports include: 1) Detailed descriptions of material, or information gathered or reviewed; 2) Detailed descriptions of all statements reviewed or taken; 3) Detailed descriptions of tests conducted or reviewed; 4) Analysis to support the conclusions and recommendations.

Submitted by:

\_\_\_\_\_

**Notice:** The other party will have access to these confidential reports. If you are concerned for your safety or the safety of the children, you may redact (block out or delete) information that identifies your location.

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_  
Child(ren),

\_\_\_\_\_  
Petitioner(s),

and

\_\_\_\_\_  
Respondent(s).

**No.** \_\_\_\_\_

**Order Re Adequate Cause  
(Nonparental Custody)**

Denied (ORRACD)

Granted (ORRACG)

Hearing set (ORH)

**Clerk's Action Required**

**I. Basis**

- 1.1 A petition requesting custody of child(ren) be granted to petitioner(s) has been presented to the court.
- 1.2 A hearing was held on \_\_\_\_\_ [Date].

**II. Findings**

***The Court Finds:***

**2.1 Jurisdiction**

This court has jurisdiction over the proceeding and the parties.

**2.2 Service on Nonmoving Party**

The nonmoving parties were served with a copy of the Nonparental Custody Petition, summons, notice of hearing for adequate cause, and \_\_\_\_\_, as follows:

- \_\_\_\_\_ [name] served on \_\_\_\_\_ [Date].
- \_\_\_\_\_ [name] served on \_\_\_\_\_ [Date].
- \_\_\_\_\_ [name] served on \_\_\_\_\_ [Date].

**2.3 Time Elapsed Since Service on the Nonmoving Party**

More than 20 days have elapsed since the date of service on all nonmoving parties served within the state of Washington; and more than 60 days have elapsed since the date of service on all nonmoving parties served outside the state of Washington; and more than 90 days have elapsed since date of mailing to all nonmoving parties served by mail.

**2.4 Adequate Cause Finding**

- Adequate cause for hearing the petition has not been established.
- Adequate cause for hearing the petition has been established by court order after a hearing or by stipulation of all parties.

**III. Order**

***It is Ordered:***

- The petition is denied and all temporary orders are terminated.
- The matter is set for hearing or trial at a date or time to be established.
- The matter is set for hearing or trial at:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ a.m./p.m.  
 Place: \_\_\_\_\_ Room/Department: \_\_\_\_\_

- Other:

Dated: \_\_\_\_\_

\_\_\_\_\_  
**Judge/Commissioner**

Presented by:

Approved by:

\_\_\_\_\_  
Signature of Party or Lawyer/WSBA No.

\_\_\_\_\_  
Signature of Party or Lawyer/WSBA No.

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Name

Approved by:

Approved by:

\_\_\_\_\_  
Signature of Party or Lawyer/WSBA No.

\_\_\_\_\_  
Signature of Party or Lawyer/WSBA No.

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Name

Approved by Guardian Ad Litem:

\_\_\_\_\_  
Signature of Guardian Ad Litem or Lawyer/WSBA No.

\_\_\_\_\_  
Print or Type Name

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_  
Child(ren),

\_\_\_\_\_  
Petitioner(s),

and

\_\_\_\_\_  
Respondent(s).

No. \_\_\_\_\_

**Joinder  
(JN)**

**1. Joinder**

I have read the petition and join in it. I understand that by joining in the petition, a decree or judgment and order may be entered in accordance with the relief requested in the petition, unless prior to the entry of the decree or judgment and order a response is filed and served.

**2. Notice of Further Proceedings**

I waive notice of entry of the decree.

I demand notice of all further proceedings in this matter. Further notice should be sent to the following service address: [You may list an address that is not your residential address where you agree to accept legal documents.]

\_\_\_\_\_  
\_\_\_\_\_

Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPSCU 09.0200) with the court clerk.

**3. Other**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Joining Party

\_\_\_\_\_  
Print or Type Name

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_

Child(ren),

\_\_\_\_\_

Petitioner(s),

and

\_\_\_\_\_

Respondent(s).

No. \_\_\_\_\_

**Waiver Of Rights Under  
Service Members Civil  
Relief Act And Admission  
Of Service**

**(No Mandatory Form Available)**

My name is \_\_\_\_\_. I am the respondent/nonmoving party in the above-entitled action. The petitioner/moving party has requested nonparental custody. I am a member or the protected dependent of a member of the United States military and I am informed of my rights under the Service Members Civil Relief Act of March 4, 1918, as amended and the Military Service Members' Civil Relief Act, RCW Ch. 38.42. I waive my rights under the Service Members Civil Relief Act and the Military Service Members' Civil Relief Act, RCW Ch. 38.42 and I request the court to determine whether to grant the relief requested by the petitioner/moving party.

I received a copy of the Summons and Petition for Nonparental Custody and Proposed Residential Schedule and Proposed Order of Child Support (if applicable) and other documents listed in the Return of Service or Acceptance of Service in this matter on \_\_\_\_\_.

Name of Service member: \_\_\_\_\_

Rank: \_\_\_\_\_

Serial No.: \_\_\_\_\_

Unit: \_\_\_\_\_

Signed at \_\_\_\_\_, on \_\_\_\_\_.  
[Place] [Date]

\_\_\_\_\_  
Signature of Nonmoving Party

\_\_\_\_\_  
Print or Type Name

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for  
the state of \_\_\_\_\_,  
residing at \_\_\_\_\_.  
My Commission Expires: \_\_\_\_\_.

**Superior Court of Washington  
County of \_\_\_\_\_**

In re the Custody of:

\_\_\_\_\_

Child(ren),

\_\_\_\_\_

Petitioner(s),

and

\_\_\_\_\_

Respondent(s).

**No.** \_\_\_\_\_

**Notice of Military Dependent**

**(No Mandatory Form Developed)**

I declare under penalty of perjury under the laws of the State of Washington that I am the dependent of a member of the National Guard or a military reserve component under a call to active service for a period of more than thirty consecutive days. I am filing this Notice to inform the court that I believe I am entitled to protections under the Servicemembers' Civil Relief Acts and that I do not waive those protections.

I am:

the service member's spouse

the service member's minor child

an individual for whom the service member provided more than one-half of my support for the last 180 days.

I am the dependent of the following service member:

Name of Service member: \_\_\_\_\_

Rank: \_\_\_\_\_

Serial No.: \_\_\_\_\_

Unit: \_\_\_\_\_

Signed at \_\_\_\_\_, \_\_\_\_\_ (city and state) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

**Responding to a Petition for Nonparental Custody 12/08  
EVALUATION FORM**

Your comments are appreciated and will help to make this packet more useful to others. Please take a moment to complete this form and return it to:

Danielle Rebar  
Northwest Justice Project  
500 W. 8<sup>th</sup>, Suite 275  
Vancouver, WA 98660

1. Where did you get this packet? \_\_\_\_\_
2. What is your primary language? \_\_\_\_\_
3. Are you a \*low-income person?  yes  no  
[\*\$1100 per month for household of 1; \$1400 for 2; \$1700 for 3; \$20000 for 4; \$2200 for 5]
4. What is the last grade you completed in school? \_\_\_\_\_
5. Did you read the instructions?  yes  no
6. Did you also need the help of an agency, court facilitator, or advocate to complete your case?  
 yes  no  
6a. If yes, what agency or individual helped you? \_\_\_\_\_
7. Did you use the legal forms?  yes  no
8. Did you find anything difficult to understand?  yes  no  
8a. If yes, please tell us what. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Did you find any mistakes?  yes  no  
If yes, what mistakes were found? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Today's Date: \_\_\_\_\_
11. Other Comments or Suggestions: \_\_\_\_\_