

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	
NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME	CASE NUMBER:

If the support order is based on presumed income, you may file this motion and ask the court to cancel (set aside) the support order. If the court agrees with you, the court will issue another order based on the actual income, earning capacity, or income allowable by law. You must file the original of this motion and the attachments specified in item 4 below with the court clerk within one year from the date the first collection of support was made and serve a copy on the local child support agency and any other party. Keep a copy of this motion for your records.

1. To: Petitioner Respondent Local Child Support Agency Other (specify):

A hearing on this motion will be held as follows (see instructions on how to get a hearing date):

a. Date: _____ Time: _____ <input type="checkbox"/> Dept.: _____ <input type="checkbox"/> Div.: _____ <input type="checkbox"/> Room: _____
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b. Address of court: same as noted above other (specify):

2. I am asking the court to cancel (set aside) the child support order in this case.
3. I am asking the court to issue another order because the current order is based on a presumed income that is different from the actual income.
4. Attached is an *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155), or other information concerning income for any relevant years.
5. Attached is my *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form FL-610).
6. My address and telephone number for receipt of all notices and court dates are as follows:

Address:
 City, state, and zip code:
 Home telephone:
 Work telephone:

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

Date:

_____ _____
 (TYPE OR PRINT NAME) (SIGNATURE)

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, before the hearing, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and recommendations to a judge. However, if you object to the commissioner acting as a temporary judge, an order will not be made until a judge reviews your case.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. My residence or business address is *(specify)*:

3. I served a copy of the foregoing *Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental)* and all attachments as follows *(check either a or b for each person served)*:

a. **Personal delivery.** I personally delivered a copy and all attachments as follows:

- | | |
|--|---|
| (1) <input type="checkbox"/> Name of party or attorney served: | (2) <input type="checkbox"/> Name of local child support agency served: |
| (a) Address where delivered: | (a) Address where delivered: |
| (b) Date delivered: | (b) Date delivered: |
| (c) Time delivered: | (c) Time delivered: |

b. **Mail.** I am a resident of or employed in the county where the mailing occurred.

- (1) I enclosed a copy in an envelope and
 - (a) **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - (2) Name of party or attorney served:
 - (3) Name of local child support agency served:
- | | |
|--|--|
| (a) Address where delivered: | (a) Address where delivered: |
| (b) Date mailed: | (b) Date mailed: |
| (c) Place of mailing <i>(city and state)</i> : | (c) Place of mailing <i>(city and state)</i> : |

c. **Other** *(specify code section)*:

Additional page is attached.

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

Date:

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF PERSON WHO SERVED REQUEST)
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INFORMATION SHEET FOR NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME

These instructions are for parties other than the local child support agency. Please follow these instructions to complete the *Notice and Motion to Cancel (Set Aside) Support Order* (form FL-640) if you do not have a lawyer to represent you. If you have a lawyer, he or she will complete this form.

WARNING: Do not wait to file your motion. See a lawyer or the family law facilitator for help.

This form should be used only if your support order was based on presumed income and the presumed income is different from your actual income. If you are not sure whether your order is based on presumed income, look at your copy of the *Judgment Regarding Parental Obligations* (form FL-630). If the box for item 3 on the front of the judgment is checked, your support amount is based on presumed income. If it is not checked, your support amount is based on income information that was available then, and you should not use this form (FL-640). If you do not have a copy of the judgment, you can get one from either the court clerk or the local child support agency office.

You must file the completed motion form and attachments with the court clerk within one year of the date of the first collection of support. The address of the court clerk is the same as the one shown for the superior court on the *Judgment Regarding Parental Obligations* (form FL-630). You may have to pay a filing fee. If you cannot afford to pay the filing fee, the court may waive it. For more information about the filing fee and waiver of the filing fee, contact the court clerk. **Keep three copies of the filed motion form and its attachments. Serve one copy on the local child support agency and one copy on the other party.** (See *Information Sheet for Service of Process*, form FL-611.) **The third copy is for your records.**

INSTRUCTIONS FOR COMPLETING THE NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME FORM (TYPE OR PRINT FORM IN BLACK INK)

Page 1, first box, top of form, left side: Print your name, address, and telephone number in this box if they are not already there.

Page 1, second box, left side: Print your county's name and the court's address in this box. Use the same address for the court that is on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, third box, left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, first box, top of form, right side: Leave this box blank for the court's use.

Page 1, second box, right side: Print your case number in this box. This number is also on the *Judgment Regarding Parental Obligations* (form FL-630).

1. You must contact the court clerk's office and ask that a hearing date be set for this motion. The court clerk will give you the information you need to complete this section.
- 2-3. These sections are asking the court to cancel your child support order and issue another one based on your actual income.
4. **Attach a completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), or other information concerning income for any relevant years. Also, check the local rules of court for any local requirements.**
5. You may file a completed *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form FL-610). Usually you must file an *Answer to Complaint* with the court clerk within 30 days from the date you are served with the complaint. Talk to a lawyer or the family law facilitator to understand your rights.
6. You must list the address and phone numbers where you can receive all notices and court dates. You must let the court know whenever your address changes. If the court does not have your current address, you may not receive important notices that affect you.

You must date the form, print your name, and sign the form under penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

Top of second page, box on left side: Print the names of petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on page 1.

Top of second page, box on right side: Print your case number in this box. Use the same number as the one on page 1. Instructions for completing the *Proof of Service* on page 2 of this form are in the *Information Sheet for Service of Process* (form FL-611). The person who serves the motion and its attachments must fill out this section of the form. **You cannot serve your own motion.**