

The Santa Barbara Estate Planning Council
presents

Divorce California Style

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with guests

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Attached discussion material:

1. Family Code Section 2024.
2. Family Law Summons, with "Standard" Family Law Restraining Orders.
3. Deposition Subpoena for Personal Appearance and Production of Documents.
4. Deposition Subpoena for Production of Business Records.

FAMILY CODE SECTION 2024 (a):

"(a) A petition for dissolution of marriage, nullity of marriage, or legal separation of the parties, or a joint petition for summary dissolution of marriage, shall contain the following notice:

"Dissolution or annulment of your marriage may automatically cancel your spouse's rights under your will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your spouse's rights as beneficiary of your life insurance policy. If these are not the results that you want, you must change your will, trust, account agreement, or other similar document to reflect your actual wishes.

Dissolution or annulment of your marriage may also automatically cancel your rights under your spouse's will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, and survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your rights as beneficiary of your spouse's life insurance policy.

You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement benefit plans, and credit reports to determine whether they should be changed or whether you should take any other actions in view of the dissolution or annulment of your marriage, or your legal separation. However, some changes may require the agreement of your spouse or a court order (see Part 3 (commencing with Section 231) of Division 2 of the Family Code)."

Section (b) contains similar provisions that must be included in an order of dissolution.

SUMMONS (Family Law)

CITACIÓN (Derecho familiar)

NOTICE TO RESPONDENT (Name):
 AVISO AL DEMANDADO (Nombre):

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

You have been sued. Read the information below and on the next page.
 Lo han demandado. Lea la información a continuación y en la página siguiente.

Petitioner's name is:
 Nombre del demandante:

CASE NUMBER (NÚMERO DE CASO):

You have 30 calendar days after this *Summons* and *Petition* are served on you to file a *Response* (form FL-120) at the court and have a copy served on the petitioner. A letter, phone call, or court appearance will not protect you.

If you do not file your *Response* on time, the court may make orders affecting your marriage or domestic partnership, your property, and custody of your children. You may be ordered to pay support and attorney fees and costs.

For legal advice, contact a lawyer immediately. Get help finding a lawyer at the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), at the California Legal Services website (www.lawhelpca.org), or by contacting your local county bar association.

Tiene 30 días de calendario después de haber recibido la entrega legal de esta Citación y Petición para presentar una Respuesta (formulario FL-120) ante la corte y efectuar la entrega legal de una copia al demandante. Una carta o llamada telefónica o una audiencia de la corte no basta para protegerlo.

Si no presenta su Respuesta a tiempo, la corte puede dar órdenes que afecten su matrimonio o pareja de hecho, sus bienes y la custodia de sus hijos. La corte también le puede ordenar que pague manutención, y honorarios y costos legales.

Para asesoramiento legal, póngase en contacto de inmediato con un abogado. Puede obtener información para encontrar un abogado en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en el sitio web de los Servicios Legales de California (www.lawhelpca.org) o poniéndose en contacto con el colegio de abogados de su condado.

NOTICE—RESTRAINING ORDERS ARE ON PAGE 2: These restraining orders are effective against both spouses or domestic partners until the petition is dismissed, a judgment is entered, or the court makes further orders. They are enforceable anywhere in California by any law enforcement officer who has received or seen a copy of them.

AVISO—LAS ÓRDENES DE RESTRICCIÓN SE ENCUENTRAN EN LA PÁGINA 2: Las órdenes de restricción están en vigencia en cuanto a ambos cónyuges o miembros de la pareja de hecho hasta que se despidan la petición, se emita un fallo o la corte dé otras órdenes. Cualquier agencia del orden público que haya recibido o visto una copia de estas órdenes puede hacerlas acatar en cualquier lugar de California.

FEE WAIVER: If you cannot pay the filing fee, ask the clerk for a fee waiver form. The court may order you to pay back all or part of the fees and costs that the court waived for you or the other party.

EXENCIÓN DE CUOTAS: Si no puede pagar la cuota de presentación, pida al secretario un formulario de exención de cuotas. La corte puede ordenar que usted pague, ya sea en parte o por completo, las cuotas y costos de la corte previamente exentos a petición de usted o de la otra parte.

[SEAL]

- The name and address of the court are (El nombre y dirección de la corte son):
- The name, address, and telephone number of the petitioner's attorney, or the petitioner without an attorney, are: (El nombre, dirección y número de teléfono del abogado del demandante, o del demandante si no tiene abogado, son):
 Paul A. Roberts, SBN 54421
 HOLLISTER & BRACE
 1126 Santa Barbara Street
 Santa Barbara, CA 93102
 (805) 963-6711
 54421

Date (Fecha): _____ Clerk, by (Secretario, por) _____, Deputy (Asistente)

STANDARD FAMILY LAW RESTRAINING ORDERS

Starting immediately, you and your spouse or domestic partner are restrained from:

1. removing the minor children of the parties from the state or applying for a new or replacement passport for those minor children without the prior written consent of the other party or an order of the court;
2. cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their minor children;
3. transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life; and
4. creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court. Before revocation of a nonprobate transfer can take effect or a right of survivorship to property can be eliminated, notice of the change must be filed and served on the other party.

You must notify each other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, you may use community property, quasi-community property, or your own separate property to pay an attorney to help you or to pay court costs.

ÓRDENES DE RESTRICCIÓN ESTÁNDAR DE DERECHO FAMILIAR

En forma inmediata, usted y su cónyuge o pareja de hecho tienen prohibido:

1. llevarse del estado de California a los hijos menores de las partes, o solicitar un pasaporte nuevo o de repuesto para los hijos menores, sin el consentimiento previo por escrito de la otra parte o sin una orden de la corte;
2. cobrar, pedir prestado, cancelar, transferir, deshacerse o cambiar el nombre de los beneficiarios de cualquier seguro u otro tipo de cobertura, como de vida, salud, vehículo y discapacidad, que tenga como beneficiario(s) a las partes y su(s) hijo(s) menor(es);
3. transferir, gravar, hipotecar, ocultar o deshacerse de cualquier manera de cualquier propiedad, inmueble o personal, ya sea comunitaria, cuasicomunitaria o separada, sin el consentimiento escrito de la otra parte o una orden de la corte, excepto en el curso habitual de actividades personales y comerciales o para satisfacer las necesidades de la vida; y
4. crear o modificar una transferencia no testamentaria de manera que afecte la asignación de una propiedad sujeta a transferencia, sin el consentimiento por escrito de la otra parte o una orden de la corte. Antes de que se pueda eliminar la revocación de una transferencia no testamentaria, se debe presentar ante la corte un aviso del cambio y hacer una entrega legal de dicho aviso a la otra parte.

Cada parte tiene que notificar a la otra sobre cualquier gasto extraordinario propuesto por lo menos cinco días hábiles antes de realizarlo, y rendir cuenta a la corte de todos los gastos extraordinarios realizados después de que estas órdenes de restricción hayan entrado en vigencia. No obstante, puede usar propiedad comunitaria, cuasicomunitaria o suya separada para pagar a un abogado que lo ayude o para pagar los costos de la corte.

NOTICE—ACCESS TO AFFORDABLE HEALTH INSURANCE: Do you or someone in your household need affordable health insurance? If so, you should apply for Covered California. Covered California can help reduce the cost you pay towards high quality affordable health care. For more information, visit www.coveredca.com. Or call Covered California at 1-800-300-1506.

AVISO—ACCESO A SEGURO DE SALUD MÁS ECONÓMICO: ¿Necesita seguro de salud a un costo asequible, ya sea para usted o alguien en su hogar? Si es así, puede presentar una solicitud con Covered California. Covered California lo puede ayudar a reducir el costo que paga por seguro de salud asequible y de alta calidad. Para obtener más información, visite www.coveredca.com. O llame a Covered California al 1-800-300-0213.

WARNING—IMPORTANT INFORMATION

California law provides that, for purposes of division of property upon dissolution of a marriage or domestic partnership or upon legal separation, property acquired by the parties during marriage or domestic partnership in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language in the deed that characterizes how title is held (i.e., joint tenancy, tenants in common, or community property) will be controlling, and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property.

ADVERTENCIA—INFORMACIÓN IMPORTANTE

De acuerdo a la ley de California, las propiedades adquiridas por las partes durante su matrimonio o pareja de hecho en forma conjunta se consideran propiedad comunitaria para fines de la división de bienes que ocurre cuando se produce una disolución o separación legal del matrimonio o pareja de hecho. Si cualquiera de las partes de este caso llega a fallecer antes de que se divida la propiedad comunitaria de tenencia conjunta, el destino de la misma quedará determinado por las cláusulas de la escritura correspondiente que describen su tenencia (por ej., tenencia conjunta, tenencia en común o propiedad comunitaria) y no por la presunción de propiedad comunitaria. Si quiere que la presunción comunitaria quede registrada en la escritura de la propiedad, debería consultar con un abogado.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Paul A. Roberts, SBN 54421 HOLLISTER & BRACE 1126 Santa Barbara Street Post Office Box 630 Santa Barbara, CA 93102 TELEPHONE NO.: (805) 963-6711 FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY
Court for county in which discovery is to be conducted: SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara STREET ADDRESS: 1100 Anacapa Street MAILING ADDRESS: 1100 Anacapa Street CITY AND ZIP CODE: Santa Barbara, CA 93101 BRANCH NAME: ANACAPA DIVISION	
Court in which action is pending: Name of Court: STREET ADDRESS: MAILING ADDRESS: CITY, STATE, AND ZIP CODE: COUNTRY:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CALIFORNIA CASE NUMBER (if any assigned by court):
DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS IN ACTION PENDING OUTSIDE CALIFORNIA	CASE NUMBER (of action pending outside California):

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:

Date:	Time:	Address:
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- a. As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in item 4. (Code Civ. Proc., § 2025.230.)
 - b. You are ordered to produce the documents, electronically stored information, and things described in item 3.
 - c. This deposition will be recorded stenographically through the instant visual display of testimony and by audiotape videotape.
2. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
3. The documents, electronically stored information, and things to be produced and any testing or sampling being sought are described as follows (if electronically stored information is required, the form or forms in which each type of information is to be produced may be specified) :

Continued on Attachment 3 (use form MC-025).

4. If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are described as follows:

Continued on Attachment 4 (use form MC-025).

5. Attorneys for the parties to this action or parties without attorneys are (name, address, telephone number, and name of party represented):

Continued on Attachment 5 (use form MC-025).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Paul A. Roberts, SBN 54421 HOLLISTER & BRACE 1126 Santa Barbara Street Post Office Box 630 Santa Barbara, CA 93102 TELEPHONE NO.: (805) 963-6711 FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara STREET ADDRESS: 1100 Anacapa Street MAILING ADDRESS: 1100 Anacapa Street CITY AND ZIP CODE: Santa Barbara, CA 93101 BRANCH NAME: ANACAPA DIVISION	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	CASE NUMBER:

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): On (date) : Location (address):	At (time):
Do not release the requested records to the deposition officer prior to the date and time stated above.	

- a. by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):

Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: _____ (TYPE OR PRINT NAME) _____ (SIGNATURE OF PERSON ISSUING SUBPOENA)

(Proof of service on reverse)

(TITLE)